



















JOURNAL  
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# STATE OF NEW HAMPSHIRE

## *ORGANIZATIONAL DAY*

*WEDNESDAY, DECEMBER 3, 1986*

The Clerk called the Senate to order at 1:00 pm.

SENATOR PRESTON: If there are no objections, I think it would be appropriate to allow the press down in the Senate Chamber. It would allow more room for guests in the balcony. If there are any objections, certainly I would respect them, but I would hope the press would be allowed down on the floor.

Hearing no objections, the Press entered the Senate Chamber.

Senator John P.H. Chandler, Jr. offered the Prayer.

Let Us Pray. Heavenly Father, Great architect of the universe and giver of all good, we ask Thy blessing on this assembly here today. We hope that what we will do will be right in Your sight and that we will continue to do the right thing, the best for the people of the State of New Hampshire during the remainder of the session. We ask all of these things in Thy Holy Name.

Amen.

Senator Roberge led the Pledge of Allegiance.

The Clerk called the Roll which showed the following Senators present as follows: Bond, Hounsell, Heath, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, Charbonneau, McLane, Podles, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston, and Krasker.

There are 23 members present today.

Recess.

Out of Recess.

### ANNOUNCEMENTS

The Clerk read a communication from Senator Elect William A. Johnson which read as follows:

I am unable to attend the Organizational Meeting of the New Hampshire Senate December 3, 1986, due to a recent injury from which I am recuperating in Florida.

Recess to await the Governor and Council.

Out of Recess.

At that time, on the first Wednesday in December, in the year of our Lord, one thousand and nine hundred and eighty-six being the day prescribed by the Constitution for the Legislature of New Hampshire to assemble at the Capitol in the City of Concord in said State, and John H. Sununu, Governor, and the Executive Council having come into the Senate Chambers, took and subscribed the oaths of office "I do solemnly and sincerely swear and affirm that I will faithfully and impartially discharge and perform all the duties encumbered on me as State Senator according to the best of my abilities agreeably to rules and regulations of this constitution and laws of the State of New Hampshire. So help me God" and witnessed the signing of the oath by each individual Senator, and were duly qualified as Senators agreeably: Bond, Hounsell, Heath, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, Charbonneau, McLane, Podles, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston, and Krasker.

The Clerk read a communication from Senator Johnson requesting that he be sworn in when he returns on January 7, 1987.

Senator Bartlett moved that Senator Hough be elected temporary presiding officer.

Senator Blaisdell seconded the motion.

Adopted.

The Clerk requested Senator Dupont and Senator Chandler to escort Senator Hough to the rostrum.



The Presiding Officer, Senator Hough, asked for nominations for the office of President of the Senate.

Senator Podles placed the name of Senator William S. Bartlett in nomination for Senate President.

SENATOR PODLES: Mr. Presiding Chairman and fellow Senators, it gives me great pleasure to place in nomination the name of Senator William Bartlett for the next Senate President. I'd like to first give you a little background on the Senator and tell you why he should be our next Senate President. Bill, as he is better known, lived most of his life in Kingston, New Hampshire. He graduated from the University of New Hampshire, Class of 1952 with a B.S. degree. He served in the United States Air Force from 1952 to 1954. He was a selectman for the Town of Kingston for six years, a fire chief for two years, and operated two businesses for the last thirty years. He is also the father of four children.

He was elected State Senator in a special election in 1982 and later received the honor of being elected to three consecutive terms. As my Vice-Chairman on Public Affairs in 1983 and 1984, and again a member of my committee in 1985 and 1986, I can truthfully say that Senator Bartlett's influence felt in all major decisions of the committee showed a clarity, imagination, and wisdom that never failed. He represents a rare combination of judgment, imagination, and an immunity to pressure. Senator Bartlett has also served two terms on Senate Finance, bringing considerable expertise to that committee. In every action at our sessions on the Floor of the Senate, he showed fearlessness of personal consequences whenever right was involved.

As we begin the 1987-1988 session of the New Hampshire Senate, we need to assert ourselves, on behalf of our constituencies, as an independent and individual chamber. To some of you, this will be your first session. You will find the pace quick and the intensity high. You need to have strong and effective leadership. To me, as I begin my fourth term, it is clear that Senator Bartlett has the capability, the reputation for integrity, honesty, and loyalty. He is a successful businessman with administrative ability, a talent for leadership and organization, and most of all, an understanding of the system. He is certain to be a source of strength to the administration in the solution of its problems. Under his leadership, we can look forward to a brilliant future and increased success for our Senate. I urge your support for Senator Bartlett as the next President of the Senate.

Senator Hounsell seconded the nomination.

SENATOR HOUNSELL: Mr. Chairman, fellow Senators, I am most honored to second the nomination of the Gentleman from Kingston for the venerable position of Presiding Officer of these hallowed chambers. As I begin my second term serving the 32 towns that compose my district, I look for a leader who will raise this Senate to the heights necessary to meet the challenges of the next 2 years. As I look at the outstanding individuals who form what is this 1987-88 Senate, I look for a leader who will provide both the counsel and the direction that is hoped for and expected by the members. As I ponder the original intent of the authors of New Hampshire's Constitution and as I examine Part Second Article 37 it becomes obvious to me that the mystery of the Senate can serve the people of this great state with wondrous harmony when adhered to with the strictest of interpretation. It becomes evident that the numbers of the Senate, the election and the qualifications of its members best provide the citizens of this great state with the continuation of freedom and liberty when the Senate remains independent, individuate and indivisible. I suspect that many Senators in this chamber are qualified to be our President. However, I am convinced beyond a shadow of a doubt that Senator William S. Bartlett, Jr., the nominee of the majority of the Republican caucus, is best qualified. Thank you.

Senator Preston placed the name of Senator Clesson J. Blaisdell in nomination for Senate President.

SENATOR PRESTON: It is indeed a pleasure and an honor for me to nominate Senator Clesson J. Blaisdell, of Keene, District #10, to serve as our next President. Junie, as he is better known to most of us, has served in just about every capacity of committees in the Senate. He served on Finance, Insurance, Ways and Means, Fish and Game (as it was known), Legislative Facilities, Fiscal Committees and now serves as a member of the Advisory Budget Control Committee.

With the passing of Senator LaMontagne from District #1, Senator Blaisdell is now the Dean of the Senate. He has served with many Governors and he was appointed chairman of the Governors Task Force on DWI by the late Hugh Gallan. Senator Blaisdell has been a leader. He has sponsored legislation on numerous issues from product liability, retirement, education and in the 1985 - 1986 session, the first of the annual sessions, he sponsored legislation on human rights, legislation to help the finances of vocational-technical col-

leges, annual inspections for automobiles to benefit consumers and co-sponsored legislation relative to chiropractics, bingo and a full melody of issues that affected the people.

In the eight terms that Senator Blaisdell has served in the Senate, he has always made himself available to all of the people and not only in his district, but the entire State, and continues to maintain that open door policy.

Junie has been an active sportsman all his life. He played sports in his younger day in the high schools, the prep schools, in college baseball and basketball. He currently serves as a scout in the New England area with the Los Angeles Dodgers. He was born in Keene and educated in the Keene school system, holds an honorary doctor of law from the Keene State College and is married to his lovely wife, Peg, and has 3 children and is a proud grandfather to two children. He is an entrepreneur. He owns 'Junie Blaisdell's Sportarama' and he has lived in Keene for all of his life. He is a veteran of WWII, served in the Pacific with the United States Navy, he is a member of the American Legion, Knights of Columbus; incorporated the Keene Savings Bank, Keene of Walpole, he is a trustee of Cedar Crest, a director of Keene Babe Ruth League and the Veterans of Foreign Wars. There is no one, no one, more dedicated in serving the state of New Hampshire and its citizens than Junie Blaisdell. Those for whom Junie has done the most have never met him. Those for whom Junie Blaisdell has done the most will never know him. The children that are handicapped receiving special education will never know it was Senator Blaisdell that sponsored their legislation. Nor will the youngest in Laconia who had doors open to him to partake in a normal life as possible in the community ever realize that it was Senator Blaisdell that sponsored the monies to free those children from an institution. Nor the patient at the State Hospital will ever meet Senator Blaisdell, who now lives in surroundings that we can be proud of and decent facilities. When Senator Blaisdell arrived here there were 3,000 people crammed into a state institution. There are now some 550 with outreach facilities that are there because of Senator Blaisdell.

He is a sports official, he calls them as he sees them and he still calls them that way in the Senate. Senator Blaisdell is compassionate. I have seen him in Senate Finance hearings and discussions from welfare mothers. He would walk out the door after the hearing and buy an ice cream for one of the children that was testifying that day. He is compassionate but, he is a tough negotiator. He is a leader, he is

respected by both republicans and democrats. You have an opportunity today to select a qualified and experienced member of this body as your President. He is my good friend and I hope you will vote for him. Thank you.

Senator St. Jean seconded the nomination.

SENATOR ST. JEAN: Mr. Chairman, members of the Senate, it is my distinct privilege and honor to second the nomination of Junie Blaisdell as the Senator from District #10. I will not attempt to enlarge upon the eloquence of my fellow Senator, Bob Preston. I will not attempt to convince you of what you already know. As Dean of the Senate, Junie Blaisdell has proven time and time again that he has the stature, temperament, compassion and respect of his fellow Senators. When we were most divided, he has united us. When we have been torn apart by issues, he has been the healer. He has performed this role with varied techniques, ranging from humor and, well, time reminded us of our priorities. In lots of ways, Junie has become the conscience of this body. As he showed in the last hour, Junie is all our conscience. The Senate has been put through a lot lately, we all know that; he has stood up to the pressure. We have held onto our integrity and Junie Blaisdell has certainly held to his integrity. In Junie Blaisdell we have a leader who can pull us together. At times like this, the party should not be the issue. I second the nomination of Senator Blaisdell and urge all of my colleagues, regardless of party, to support him as well. Thank You.

Senator Chandler moved that nominations be closed for Senate President.

SENATOR BLAISDELL: Jim, thank you very much. From mate to patriot, I certainly appreciate that. And to you Senator Preston, someone once said many years ago, if a person in his lifetime could call one person his true friend, then his life's fortune is made. You and Charlotte have made me a very rich person. I thank you for that. Mr. President, in my many years of public services as a Senator from District #10, I have come to hold our Senate in high esteem. This body is unique. Its size, flexibility and capability to hammer out solutions to public problems in an atmosphere of respectful dialogue and cooperation is unmatched anywhere in the World. In over the past sixteen years I have held many Senate positions and titles, but the title I have treasured most in all my days in Senate service is not an official one, it is that of Dean. I value it greatly because it means more to me than mere longevity of service, it signifies in a way that



the Senate I respect so much has given me so much measure of its respect in return. There is no job description for the position of Senate Dean. I expect that everyone in that position has viewed it in his own way. To me it means that I must step back from time to time and remind us all that, though our debates can become heated and outside pressures can become unbearable, we are a body of collective reason with a constitutional duty to work together for the public who elected us. Today I have been nominated by my colleagues to assume the honored title and position of Senate President. As everyone knows, this year my nomination is more than ceremonial and until today, in fact this very minute, I could win that office. As important as that would be to me, I realize that there is more at stake here than who shall serve as Senate President. The weeks and days and hours before this moment I have been offered every conceivable position and title of importance in this Senate. In fact, I might add that the Seargeant-at-Arms, the Doorkeeper and the State House Guide better be careful because I have been offered that, too. Many of these offers have been made by some who think that their office or party title has given them a license to tamper with the independence and the integrity of this body and I have found their conduct to be more than a intrusive, it has been offensive and I know that many of you have been offenders as well. I'm especially proud of the new members of the Senate who showed by their conduct that they, too, cannot be hassled. As Dean of this Senate there are also times when I believe that I must do more than just remind us of our purpose for being here. I sincerely believe that there are times when I must act myself to preserve our independence, our integrity and our public image. This is one of those times.

I'm deeply honored to be nominated by my colleagues and I would be proud to serve as President but only if for such I should preside over a body whose image and integrity and ability to operate effectively would be preserved. Leadership must reach beyond official titles. If the Senate is to get on with the public's business, we must act now. We must not only assert our independence of outside intervention; we must reject that interference and its promises of titles, power and possession. As I see it, our duty is clear and I, for one, believe I must act now. I urge each of you to do the same.

With deep reluctance I therefore withdraw my candidacy for the Senate Presidency, not because I may not win but, because that victory may not result in the Senate which can work together. Above all as a Senate we must be able to do our job effectively. We must show the public that we cannot be seduced and pressured or pushed into

the loss of our constitutional identity. We must also organize ourselves in a way which will enable us to work together. The only way to do this is to support the candidacy of that republican Senator who by his conduct has shown that independence. It is run on the proposition that we can work together as Senators, as individuals, as democrats and republicans in this New Hampshire Senate. In the last session of the legislature I sat with Senator George Freese and Senator Charlie Bond on Comprehensive Tort Reform. We had a direction from this Senate; we took it and we worked hard; we came out with a good piece of legislation. I worked with Senator Charbonneau and Senator Bond on the car inspections. We had a direction again from the Senate; we upheld your position and we got a good piece of legislation. I worked with Senator White and Senator Roy on the Committee of Conference on the Budget; we had a direction from this body; we upheld it, not always agreeing, but we did what we thought was right for this State and the people who live here. This is what the Senate is all about. Working together is the only way we can do the job that we have been elected to do. I therefore withdraw in favor of William Bartlett from District #19. I plan to vote for you, Bill, and I urge my supporters to do so as well. It is time to put this election behind us and to move ahead together as Senators and as friends and I emphasize that, as friends, and allies whose job it is to pursue the public good. It is time to organize ourselves in a way which holds some promise for effective law making. That is why it is time for me to withdraw and for us to support William Bartlett.

Senator Blaisdell moved that his name be withdrawn from the candidacy for Senate President.

Request adopted.

Senator Blaisdell moved that the Clerk be instructed to cast one ballot for the nomination for William S. Bartlett as the next President of the State Senate. Senator Bond seconded the motion.

Adopted.

The Chair instructed the Clerk to cast one vote for Senator Bartlett, the newly elected President of the New Hampshire Senate.

Recess

Out of Recess

Senators Dupont and Preston escorted the new President of the Senate, Senator William S. Bartlett, to the rostrum.



## INTRODUCTION OF GUESTS

PRESIDENT BARTLETT: First I would like to introduce my family if I may, and I hope I will be able to manage and preside over the Senate a little bit better than I can over my family, as you saw how long it took to get them together. They do tell me the elevator broke down. First I would like to introduce my mother, Phyllis. You notice she has a cane and those of you that like to speak ill of me, be careful of mothers with canes. Beside her is my wife, Lee. When she says "Now Bartlett", I know that I've talked too much about the political scene. My children, Lynne B. Merrill and her husband, John; William S. III; Nancy Lee; Steven and Sean D. Stinson.

Senator Hough placed the name of Wilmont S. White in nomination for Senate Clerk.

Senator Blaisdell seconded the nomination.

Senator Chandler moved to close nominations for Senate Clerk.

Adopted.

President Bartlett instructed that one ballot be cast for Wilmont S. White, Senate Clerk.

Adopted.

Senator McLane moved to place the name of Gloria Randlett in nomination for Assistant Clerk of the Senate.

Seconded by Senator Dupont.

Senator Chandler moved that nominations be closed and one ballot be cast for Gloria Randlett.

Adopted.

Senator Hounsell moved that the name of David Dow be placed in nomination for Sergeant-at-Arms.

Senator Preston seconded the motion.

Senator Chandler moved that nominations be closed and one ballot be cast for David Dow, Sergeant-at-Arms.

Adopted.

Senator Dupont moved to table the election of Senate Doorkeeper.

Senator St. Jean seconded the motion.

Adopted.

The President administered the oaths of office to the Senate Clerk, Assistant Clerk, and Sergeant-at-Arms.

Senator Blaisdell moved the following Resolution:

#### RESOLUTION

Resolved, to meet with the House in Joint Convention for the purpose of electing Secretary of State, State Treasurer, and for canvassing votes of the office of the Governor and Council.

Adopted.

#### ANNOUNCEMENT OF LEADERSHIP POSITIONS

Senate Pro Tem: — Senator John P.H. Chandler, Jr.

Vice President: — Senator Eleanor P. Podles

Majority Leader: — Senator Edward C. Dupont

Assistant Majority Leader: — Senator Mark Hounsell

Majority Whip: — Senator Sheila Roberge

Assistant Majority Whip: — Senator Susan McLane

Minority Leader: — Senator Robert Preston

Dean of the Senate (Non-partisan) — Senator Clesson J. Blaisdell

Senator Blaisdell moved the following Resolution:

#### RESOLUTION

Resolved, that the House be notified that the Senate is ready to meet in Joint Convention.

Adopted. Senator Hough moved the following Resolution:

#### RESOLUTION

Resolved, that the Secretary of State be requested to furnish the Senate with the official returns of votes from the various Senatorial Districts.

Adopted.

Senator Dupont moved the following Resolution:

## RESOLUTION

Resolved, that the returns from the several Senatorial Districts be referred to a select committee of three with instructions to examine and count the same and report to the Senate where any vacancies or contest exists and if so, in what Senatorial District.

Adopted.

The Chair appointed Senators Dupont, Preston, and Hounsell.

Recess.

Out of Recess.

SNEATOR DUPONT: Mr. President, members of the Senate, the select committee to whom was referred the various returns of the votes for Senators from the several districts, having attended to their duties and having examined the returns made by the Secretary of State and the records in the office of said Secretary report that they find the state of vote returns from the several districts as follows:

## FIRST DISTRICT

Charles D. Bond, r	5,522
Donald F. Lamontagne, d	<u>4,256</u>
Plurality for Bond	1,266

## SECOND DISTRICT

Mark Hounsell, r&d	8,085
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## THIRD DISTRICT

Roger C. Heath, r&d	11,918
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## FOURTH DISTRICT

George E. Freese, Jr., r&d	9,175
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## FIFTH DISTRICT

Ralph Degnan Hough, r&d	8,706
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## SIXTH DISTRICT

Edward C. Dupont, r	5,392
Yvette Grimes, d	<u>3,264</u>
Plurality for Dupont	2,128

## SEVENTH DISTRICT

John P.H. Chandler, Jr., r	5,868
Richard D. Delay, Sr., d	<u>3,384</u>
Plurality for Chandler	2,484

## EIGHTH DISTRICT

George F. Disnard, d	5,629
Charles P. Puksta, r	<u>4,809</u>
Plurality for Disnard	820

## NINTH DISTRICT

Sheila Roberge, r&d	9,300
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## TENTH DISTRICT

Clesson J. Blaisdell, d&r	8,573
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## ELEVENTH DISTRICT

Jean T. White, r	6,732
Catharine B. Sage, d	<u>3,994</u>
Plurality for White	2,738

## TWELFTH DISTRICT

Barbara B. Pressly, d	5,244
Audrey A. Carragher, r	<u>4,435</u>
Plurality for Pressly	809

## THIRTEENTH DISTRICT

Mary S. Nelson, d	4,116
Patricia Janelle Donovan, r	<u>3,493</u>
Plurality for Nelson	623

## FOURTEENTH DISTRICT

Rhona M. Charbonneau, r	5,008
Harold V. Lynde, Jr., d	<u>2,863</u>
Plurality for Charbonneau	2,145

## FIFTEENTH DISTRICT

Susan McLane, r&d	10,246
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## SIXTEENTH DISTRICT

Eleanor P. Podles, r	8,006
Murray Onigman, d	<u>2,960</u>
Plurality for Podles	5,046

## SEVENTEENTH DISTRICT

William A. Johnson, r	7,270
Graham Chynoweth, d	<u>3,120</u>
Plurality for Johnson	4,150

## EIGHTEENTH DISTRICT

Robert A. Stephen, Manchester, d&r	8,957
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## NINETEENTH DISTRICT

William S. Bartlett, r&d	8,433
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## TWENTIETH DISTRICT

James R. St. Jean, d&r	7,687
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## TWENTY-FIRST DISTRICT

Franklin G. Torr, r	4,952
Henry M. Smith, d	<u>4,578</u>
Plurality for Torr	374

## TWENTY-SECOND DISTRICT

Joseph L. Delahunty, r	5,258
James W. Carpenito, d	<u>4,507</u>
Plurality for Delahunty	751

## TWENTY-THIRD DISTRICT

Robert F. Preston, d	7,166
John J. Kane, r	<u>5,138</u>
Plurality for Preston	2,028

## TWENTY-FOURTH DISTRICT

Elaine S. Krasker, d	6,845
William C. Bradley, r	<u>4,030</u>
Plurality for Krasker	2,815

Senator White moved acceptance of the report.

Adopted.

Senator Roberge offered the following Resolution:

## RESOLUTION

Resolved, that the Clerk of the Senate be authorized to provide for the biennium one newspaper printed within the State to the members and officers of the Senate.

SENATOR WHITE: Just a question, I wondered if last time we had two when we were in the bulk of the first year of the biennium, I wondered if there had been any discussion about having two six month subscriptions as opposed to one full year subscription.

Senator Chandler moved to amend the Resolution by inserting 'one daily or two weekly newspapers' to be offered to members and officers of the Senate.

SENATOR HOUNSELL: I would like to also recommend that we allow for the possibility of out-of-state papers being considered. I say this because the paper in my district that serves my area but is printed in Vermont and I would be very appreciative of receiving this.

Amendment adopted.

Resolution adopted as amended.

Senator Dupont offered the following Resolution:

## RESOLUTION

RESOLVED, that the rules of the 1985 session be adopted as the rules of the 1987 session and further that these rules may be changed by majority vote for the next three legislative days.

Adopted.



## RULES OF THE SENATE

1. The President, having taken the chair, shall determine a quorum to be present. Any erroneous entry in the daily journal shall be corrected no later than the third succeeding legislative day, and the permanent journal corrected one week after the permanent journal copy is placed in the hands of the Senate.
2. No member shall hold conversation with another while a member is speaking in debate.
3. Every member, wishing to speak, shall address the President and when he has finished shall, if having risen to speak, then sit down.
4. No member shall speak more than twice on the same question on the same day without leave of the Senate.
5. More than one member rising to speak at the same time, the President shall decide who shall speak first.
6. If any member transgresses the rules of the Senate, the President shall, or any member may, call him to order; in which case the member so called to order shall immediately cease and desist, and the Senate, if appealed to, shall decide the case. But if there is no appeal, the decision of the President shall be conclusive.
7. No member shall absent himself without permission from the Senate.
8. When any question is under debate, no motion shall be received but first, to adjourn; second, to lay upon the table; third, for the previous question; fourth, to postpone to a certain day; fifth, to commit; sixth, to amend; and seventh, to postpone indefinitely; which several motions shall have precedence in the order in which they are so arranged. Motions to adjourn, to lay upon the table, for the previous question, and to take from the table shall be decided without debate. Motions to postpone to a certain day shall be debatable both as to time and subject matter. No motion to postpone indefinitely, to postpone to a certain day, or to commit, being undecided, shall be in order at the same stage of the bill or resolution, until after adjournment.
9. A question which is postponed indefinitely shall not be acted upon during the biennium except whenever two-thirds of the whole number of elected Senators shall on division taken, vote in favor thereof.

Any bill which is indefinitely postponed shall not be reintroduced under cover of an amendment to the general appropriations (budget) bill. No motion to suspend this rule shall be permitted.

10. Any member may call for a division of the question when the sense will admit it. Unless otherwise specifically provided for, a majority of those present and voting shall be required to pass any vote.

11. When the reading of a paper or document is objected to by a member, the question shall be determined by a vote of the Senate; and without debate.

12. When the nays and yeas have been moved by a member and duly seconded by another member, each member present shall declare his assent or dissent to the question, unless for special reason he be excused by the Senate. The names of the persons so making the motion and the second shall be recorded in the Journal. A member who is to be absent when the yeas and nays are required may pair his vote with another member, to be present or also to be absent, who intends to vote on the opposite side of the question. Pairs shall be permitted only if the yeas and nays are taken on such question. Both members shall file such pair in writing with the Clerk before the question is put. In cases of pairing, the vote of neither member shall be counted in determining the result of the roll call; but the Clerk shall announce all pairs and enter them in the Journal. The President shall determine the order to the roll call.

13. In case of any disturbance or disorderly conduct in the gallery, the President shall have the power to order the same to be cleared. The Chairman of the Committee of the Whole may restrict attendance to the duly elected Senators.

14. No vote shall be reconsidered, unless the motion for reconsideration be made by a member who voted with the prevailing side, nor unless the notice of such motion be given to the Senate in open session prior to adjournment on the same day on which the vote is passed, or on the next day on which the Senate shall be in session within one half hour after the convening of the early session, and any such notice of reconsideration shall be effective for three legislative days only and thereafter shall be null and void.

15. Before any petition shall be received and read, a brief statement of the contents thereof shall be made by the member introducing the same.

16. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced in the Senate, shall be endorsed with the name of the Senator presenting them, and with the subject matter of the same. Every bill shall be marked on the first page "Senate Bill" and numbered serially; every joint resolution shall be marked "Senate Joint Resolution" and numbered serially; every concurrent resolution proposing a constitutional amendment shall be marked "Concurrent Resolution Proposing a Constitutional Amendment" and numbered serially; and every other concurrent resolution shall be marked "Senate Concurrent Resolution" and numbered serially, as each bill or resolution is introduced into the Senate.

17. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced into the Senate shall be delivered or caused to be delivered to the Office of Legislative Services, which in turn will submit it to the sponsor for his signature, and then to the Clerk by Legislative Services. If requested by the sponsor, a proposed bill, resolution or petition shall not be made public, except by the sponsor, until signed by the sponsor. During any adjournment the President may receive bills and resolutions for printing and for reference to committee, provided that no bill shall have a public hearing until it is formally introduced into the Senate printed and available for distribution. The President shall take up all bills and resolutions for introduction at the early session.

17-A (a) No request by a member of the Senate for drafting a bill or a joint resolution, other than the general appropriations (budget) bill or the capital budget bill, shall be accepted by Legislative Services for processing unless the subject matter of the legislation has been filed with Legislative Services no later than Friday, January 23, at 5:00 p.m.

(b) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill, unless the complete information necessary for drafting such a bill or joint resolution is submitted to Legislative Services not later than 5:00 p.m. on Friday, January 30.

(c) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m. on Tuesday, February 17.

(d) Notwithstanding the provisions of 17 (a), (b), and (c), a Senate bill, Senate joint resolution, or Senate concurrent resolution may be accepted by Legislative Services for drafting and introduced into

the Senate at any time prior to the deadline established by Joint Rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a two-thirds vote on the floor.

18. All resolutions which may require the signature of the Governor shall be treated in the same manner as bills.

19. Every bill shall have three readings in the Senate previous to its passage. The first and second readings shall be by title only which may be accomplished by a conglomerate resolution, after which the bill shall be referred by the President to the appropriate committee and shall be printed as provided in Rule 20, unless otherwise ordered by the Senate. No bill after it has been read a second time shall have a third reading until after adjournment from the early session. The time assigned for the third reading of bills and resolutions shall be in the late session unless otherwise ordered by the Senate. The orders of the day for the reading of bills shall hold for every succeeding day until disposed of.

20. After every bill shall have been read a second time, and referred by the President to the appropriate committee, the Clerk shall procure a sufficient number of copies, printed on paper of uniform size, for the use of the legislature, and cause the same to be distributed to the members, and when printed the bill shall be immediately delivered to the committee to which it shall have been referred. Bills received from the House shall be printed at the same stage of their procedure unless they have been printed in the House and copies distributed in the Senate, in which case any amendment made by the House shall be duplicated and distributed in the Senate.

21. No amendment shall be made but upon the second reading of a bill; and all amendments to bills and resolutions shall be in writing, with the name of the Senator and the district he represents thereon. No amendment to any bill shall be proposed or allowed at any time or by any source, including a committee of conference, except it be germane. Amendments shall have been reviewed by the Office of Legislative Services for form, construction, statutory and chapter reference.

22. A hearing shall be held upon each bill referred to a committee, and notice of such hearing shall be advertised at least five days before hearing in the Senate Calendar.

23. When a bill is reported favorably with an amendment, the report of the committee shall state the amendment, and then recite the

section of the bill in full as amended. The amendment shall be printed in the calendar of the Journal on the date that the report is listed for action.

If no action is taken on that day, then the amendment shall be printed on the day to which the bill has been referred. All bills reported shall be laid upon the table and shall not be finally acted upon until the following legislative day, and a list of such bills with the report thereon shall be published in the Journal for the day on which action shall be taken.

24. Every bill and joint resolution appropriating money, which has been referred to another committee and favorably accepted by the Senate, shall be committed to the Committee on Finance for review. If any such bills have been referred jointly to the Committee on Finance and another standing committee, the Committee on Finance may report separately and a further public hearing may be held at the discretion of the Committee on Finance. All bills appropriating money, which are referred to the Committee on Finance may have only one hearing.

25. All warrants, subpoenas and other processes issued by order of the Senate shall be under the hand and seal of the President attested by the Clerk.

26. All committees of the Senate, including senate members on committees of conference, shall consist of members of both parties as nearly equal as possible, provided that on all committees, both parties shall be represented. The President shall appoint the members of all committees, after consulting with the minority leader.

27. The standing committees of the Senate shall be as follows: The Committee on Finance, Committee on Capital Budget, Committee on Ways and Means, Committee on Education, Committee on Internal Affairs, Committee on Interstate Cooperation, Committee on Public Institutions, Health and Human Services, Committee on Transportation, Committee on Executive Departments, Committee on Development, Recreation and Environment, Committee on Judiciary, Committee on Banks, Committee on Insurance, Committee on Public Affairs, and the Committees on Rules and Resolutions, Journal, and Enrolled Bills.

28. Messages shall be sent to the House of Representatives by the Clerk of the Senate.



29. Messages from the Governor or House of Representatives may be received at all times, except when the Senate is engaged in putting the question, in calling the yeas and nays, or in counting the ballots.

30. All questions shall be put by the President, and each member of the Senate shall signify his assent or dissent by answering yea or nay. If the President doubts, or a division is called for, the Senate shall divide. Those in the affirmative on the question shall first rise from their seats and stand until they be counted. The President shall rise and state the decision of the Senate.

31. No person except members of the executive, or members of the House of Representatives and its officers, shall be admitted to the floor or the Senate, except by the invitation of the President, or some member with his consent.

32. The Senate shall adjourn to meet on the subsequent legislative day for the early session at the time mentioned in the adjournment motion. The late session shall immediately follow the early session unless the Senate shall otherwise order.

33. No standing rule of the Senate shall be suspended unless two-thirds of the members present vote in favor thereof. This rule shall not apply to Senate Rule 9.

34. No rule shall be rescinded unless two days notice of the motion has been given and two-thirds of those present vote therefor.

35. The Senate may resolve itself into a Committee of the Whole at any time on motion made for that purpose; and in forming a Committee of the Whole, the President shall leave the chair, and appoint a chairman to preside in committee.

36. The President when performing the duties of the Chair may, at any time, name any member to perform the duties of the Chair.

37. The staff of the Senate shall be composed of a clerk, an assistant clerk, a sergeant-at-arms, and a door-keeper who are to be elected by the Senate, and such other personnel as the President shall appoint. The President shall define the duties of all members of the Senate staff which are not fixed by statute or otherwise ordered by the Senate.

38. Each member of the staff of the Senate shall be available on call to carry out the work of the Senate.

39. The committees shall promptly consider and report on all matters referred to them. The President may authorize such committees having a heavy load of investigation, redrafting, research or amendments to meet as needed on non-legislative days during the legislative session. The Clerk of the Senate shall prepare a list by number, title and sponsor of all Senate bills and resolutions in committee which have not been acted upon within one week before the deadline established for the transfer of bills and resolutions from the Senate to the House of Representatives, and he shall distribute this list to every member of the Senate as soon as it is prepared.

40. Any appeal from the ruling of the presiding officer shall be decided by majority vote of the members present and voting.

41. No new motion shall be admitted under color of amendment as a substitute for the motion under debate.

42. No member shall vote on any question in which he is directly interested; nor shall he be required to vote in any case where he was not present when the question was put; nor sit upon any committee when he is directly interested in the question under consideration. In case of such interest of a member of a committee, the fact shall be reported to the Senate and another person may be substituted on that question in his place.

43. Action on the floor of a report of the Committee on Finance or a Committee of Conference on either the general appropriations (budget) bill or the capital budget bill, shall not be taken by the Senate, until said report has been available from the Senate Clerk twenty-four hours in advance, in written form. Nongermane amendments and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances.

44. **PERSONAL PRIVILEGE:** A Senator may, as a matter of personal privilege, defend his position on a bill, his integrity, his record, or his conduct, against unfair or unwarranted criticism, or may speak of an issue which relates to his rights, privileges or conveniences as a Senator; provided, however, the matters raised under personal privilege shall not be subject to questioning, answer, or debate, by another Senator.

Personal Privilege remarks may be included in the Daily Journal if requested by the Senator, and in the Permanent Journal by vote of the Senate.



A Senator may speak on other matters of his choosing and in such cases may be subject to questioning and/or answer according to the Rules of the Senate.

45. No officer or employee of the Senate during the session or any adjournment thereof shall purchase or contract for the purchase, pay or promise to pay any sum of money on behalf of the Senate or issue any requisition or manifest without the approval of the Senate President.

46 If a drafting request for a bill or resolution has been filed with the office of Legislative Services requiring a fiscal note as provided in RSA 14:44-47, the substance or a draft of the proposal may be provided to the legislative budget assistant for preparation of the required fiscal note without the specific consent of the sponsor of the proposal, provided that the identity of the sponsor shall not be disclosed.

Senator Preston offered the following Resolution:

#### RESOLUTION

Relative to the salary and mileage payments  
to the members of the Senate.

RESOLVED, that the salary of the members of the Senate be paid in one undivided sum as early as practical after the adoption of this Resolution, and be it further,

RESOLVED, that the mileage of members of the Senate be paid every two weeks during the session.

Adopted.

President Bartlett: I think that all of us should wish Senator Johnson the quickest recovery and a speedy return back to the Senate.

Recess to Joint Convention.  
Out of Recess.

Senator Blaisdell moved to adjourn until Wednesday, January 7, 1987, at 1:00 pm.

Adopted.

Adjournment.

*Wednesday, January 7, 1987*

Senate met at 1:00 PM

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Father we Thank You for the opportunity of Serving You in this Senate and in particular those whom we each represent. Welcome To You All! As we strive for a right judgement in all our work and an amicable fellowship, one to another!! God Bless Us All.

Amen

Senator Charbonneau led the Pledge of Allegiance.

#### COMMUNICATION

January 7, 1987

Mr. Wilmont White  
Clerk of the NH Senate  
State House  
Concord, NH  
Dear Mr. White,

This is to advise that the following senator-elect appeared before the Governor and Executive Council on this date and was sworn into office:

State Senate District #17  
William A. Johnson, r, Northwood (Star Route 4) 03261

Sincerely,  
Karen H. Ladd  
Administrative Assistant

#### RESOLUTION

SENATOR HEATH: Senators of the State of New Hampshire, a resolution memorializing former New Hampshire State Senator Rodrick Allen.

WHEREAS the Resolution is the means whereby the Senate of the State of New Hampshire may honor the superior efforts and accomplishments of New Hampshire citizens and,

WHEREAS we acknowledge with great sorrow the death of former State Senator Rodrick Allen and

WHEREAS he showed exemplary service to the State of New Hampshire by dedicating twelve years of his life to the New Hampshire Legislature and

WHEREAS he served one term the 1983-84 session as an esteemed member of the New Hampshire Senate and

WHEREAS during his ten years of serving the citizens of District 3 he distinguished himself as Chairman of the Executive Departments committee and the hard working member of the standing committees on Interstate Cooperation and Insurance. and

WHEREAS he served 5 consecutive terms beginning in 1973 as a devoted member of the New Hampshire House of Representatives and

WHEREAS having been committed to his community he served as Brookfield town moderator and as Clerk of the Executive Committee of the Carroll County delegation and

WHEREAS he was respected for his diligence as a legislator, his genuine concern for the State of New Hampshire and

WHEREAS he was elected in the last general election of the distinguished post of Carroll County Treasurer.

NOW THEREFOR be it Resolved that the Senate of the State of New Hampshire does hereby recognize and salute Rodrick Allen for his excellent commitment and dedicated service to New Hampshire and be it further resolved that a copy of this resolution be prepared for presentation to his family.

William Bartlett, President  
Senator Roger Heath, District 3  
Wilmont White, Clerk of the Senate.

SENATOR PODLES: This resolution memorializes former New Hampshire Senate President, Robert B. Monier.

WHEREAS the resolution is a means whereby the Senate of the State of New Hampshire may honor the superior efforts and accomplishments of New Hampshire citizens and

WHEREAS we can acknowledge with great sorrow the death in September, 1986 of former Senator Robert B. Monier who served with distinction in the New Hampshire Senate for nearly a decade and

WHEREAS for two consecutive terms beginning in 1979 he served as the Honorable President of the Senate and

WHEREAS he served one term in the New Hampshire House of Representatives and

WHEREAS he was renowned for his devotion to the Republican Party, his forceful leadership abilities and his unwavering commitment to policies he believed best served the State of New Hampshire, and

WHEREAS during his tenure as a member of the New Hampshire Senate he served as Chairman of the Senate Finance Committee and the Executive Departments Committee and as Vice-Chairman of the Internal Affairs and Recreation and Development Committees, and

WHEREAS he served competently as senior executive officer to former Governor Meldrim Thompson and

WHEREAS he served as State Planning Director and was a founding member of the New Hampshire Planning Association and

WHEREAS his skill as an educator earned him the respect of students who attended his classes at St. Anslem College and Plymouth State College and,

WHEREAS having been deeply devoted to his country, he served many years in the United States Air Force and retired with the honorable rank of Captain in 1958.

NOW THEREFOR be it resolved that the Senate of the State of New Hampshire does hereby recognize and salute Robert B. Monier for his outstanding contributions to New Hampshire and be it further resolved that a copy of this resolution be prepared for presentation to his family.

signed,  
William Bartlett, President  
Senator Eleanor Podles, Vice-President  
Wilmont S. White, Clerk of the Senate.

PRESIDENT BARTLETT: Will the Senate body please rise for a moment of silence out of respect for Senator Allen and Senate President Monier.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain:

Let Us Pray: Almighty Father we remember in solitary the hearts of men and those who give their lives for the furtherance of people. Bless them that they may go from strength for strength in the life of purpose, service in the heavenly kingdom through Christ Our Lord.

Amen.

#### ANNOUNCEMENTS

Senator Chandler moved to take from the table the election of Senate Doorkeeper.

Adopted

Senator Chandler nominated Emil Martineau for Doorkeeper.

Senator Disnard seconded the nomination.

Senator Hounsell moved that nominations be closed

The Clerk was instructed to cast one ballot for Emil Martineau.

Doorkeeper - Emil Martineau

Adopted.

SENATOR CHANDLER: I rise to nominate Emil Martineau for Doorkeeper of the State Senate, and in doing so, I would like to comment upon his past service in this body. I think it has been exemplary. He has always been very polite and very willing to help anyone or do anything that anybody wanted here. I think he brings a certain amount of dignity to the position. I first met Mr. Martineau in 1962 when he was sheriff of Coos County. I now understand that he has moved from Coos County to Sullivan County, but we won't hold that against him. It will make it easier for him to get here and

come down and serve us in the manner that we're accustomed to being served. I think he's done a very good job and I certainly hope that his election will be unanimous.

SENATOR DISNARD: Mr. President, I am very proud to second the nomination of Emil Martineau for Doorkeeper, especially proud that he now resides in Clarmont, Senate District 8, and we'd like to see him so honored.

SENATOR HOUNSELL: I move that nominations for Doorkeeper be closed and that the Clerk be instructed to cast one ballot in the name of Emil Martineau.

Adopted.

## HOUSE MESSAGE

### Request Joint Convention

The House of Representatives is ready to meet with the Honorable Senate in Joint Convention for the purpose of canvassing the votes for Governor and Councilor.

Senator Dupont moves that the Senate be in recess to meet with the House in Joint Convention.

Adopted

Recess

Out of Recess

## INTRODUCTION OF GUESTS.

### INTRODUCTION OF NEW STAFF MEMBERS

President Bartlett introduced the following new Senate staff employees:

Wilma Gouger — Executive Secretary to Senate President  
Donna Morin — Executive Secretary to Majority Leaders  
Lisa Prevost — Press Information Officer  
Debora McLeod — Finance Administrative Secretary  
Carol Pletcher — Committee Secretary Supervisor  
Susan Enright — Journal Clerk  
Jill Adams — Calendar Clerk  
June Goulson — Research Director

William Hart — Research Assistant  
James Monahan — Minority Office Aide  
Janet Nelson — Committee Secretary  
Andrea Smith — Committee Secretary  
Rachel Duvernay — Minority Office Executive Secretary

## HOUSE MESSAGE

### HOUSE REQUESTS CONCURRENCE

HB 48, Extending filing deadlines of the financial disclosure law.

HB 49, Relative to filling a vacancy in the office of the county treasurer.

### SUSPENSION OF RULES

Senator Heath moved the rules of the Senate be so far suspended to dispense with the reference to committee, the holding of a hearing, the notice of report in the calendar and that HB 49, be on second reading and open to amendment at this time.

Adopted (2/3rds vote)

HB 49, Relative to filling a vacancy in the office of the county treasurer.

SENATOR HEATH: This bill puts in the Office of Treasurer in the present law where there is no provision for filling the Office of Treasurer when it's vacant in any of the counties in the State of New Hampshire. We had the unfortunate experience of having elected a treasurer who died shortly before taking office and the County of Carroll was unable to borrow money on advice of their attorneys, although they have an assistant treasurer, without an officially elected and sworn treasurer. I suspect you all, in your respective counties, could face this. The reason why it was left out was that it was dropped inadvertently when recodification of that section of the law took place, so this applies to all counties. County of Carroll is waiting anxiously so that they can borrow money in anticipation of revenues and they would consider it a great favor if you would pass this bill today.

SENATOR NELSON: I would just like to ask about the content of the bill again. I didn't quite hear it.

SENATOR HEATH: HB 49 allows the election of treasurer in the case of vacancy in the county.



Adopted

Senator Heath moved the rules of the Senate be suspended to allow HB 49 be put on third reading and final passage at the present time.

Adopted

### Third Reading and Final Passage

HB 49, Relative to filling a vacancy in the office of the county treasurer.

Adopted

Senator White moved the rules of the Senate be so far suspended as to dispense with the reference to committee, the holding of a hearing, the notice of report in the calendar and that HB 48 be on second reading and open to amendment at this time.

Adopted (2/3rds vote)

HB 48, Extending filing deadlines of the financial disclosure law.

SENATOR WHITE: The bill is now being passed out. The new bill as they come from Legislative Services, in the brackets, it shows you what it originally was and in the bold print the new bill. Basically, because of the problems we had in financial disclosure filing of forms, half of the people filed the forms and half of those people filed them wrong and so the Implementation Committee felt that it was best to rework the bill so that it was done in the proper manner. So that the deadline of January 31st, which is coming up this month, that deadline be postponed until May 31st. That's on the first page of the bill, and on the second page of the bill is the one regarding gifts and testimonials and honorariums and that that date be moved from March 15th to May 15th. In the interim, a bill will be filed by the committee so that we can close the loopholes hopefully in the bill so that you don't have to report every cup of coffee that you receive and every Christmas present that you receive and we felt that some of the definitions had to be changed around in order for some people to file somewhere near meaningful.

SENATOR PRESTON: Senator White, as you know there were at least four Senators against this bill in the last session, I think. Senators Chandler, St. Jean, and Hough, Preston; anyways, are there any body changes in this bill other than the dates for filing?

SENATOR WHITE: No. It is to upgrade the current law so that it would be more amenable especially to the Senate.

SENATOR PRESTON: It was pointed out in the last session by the few Senators that there were so many loopholes in this it was totally unfair bill to be reported but it would have been political suicide to vote against it at that time. Are you now ready to admit publicly that that bill certainly had a lot of problems with it and that the reasons that many people voted for it were political reasons?

SENATOR WHITE: I don't think we realized that the definitions were so loosely drawn that they were going to cover a great number of items and when we got into the actual working and trying to implement the bill there were a lot of questions as to what was the source of income and what was the nature of the business association and that some of the definitions definitely had to be changed.

SENATOR CHANDLER: I think that this bill instead of changing and extending the deadline for complying with the provisions that are in the bill, doesn't go far enough. I think there should be changes made in the provisions. I think it should go back to the committee and have the committee restudy it and come up with some changes. This is just a bad bill in the first place and we're just putting it off for a little while. I would be opposed to passing it.

SENATOR BOND: I rise in support of the bill and in answer to Senator Chandler's concern there is no time between now and the filing dates to deal with his concerns and for that reason I urge you to suspend these dates until the dates indicated so that we can properly deal with the legislation.

SENATOR HOUGH: Senator Bond, if we pass this bill today in its present form and extend those dates we can certainly anticipate that prior to those new dates a new piece of legislation relative to financial disclosure will be brought forward to amend the present statute. Am I not correct?

SENATOR BOND: Senator Hough, the committee on implementation which is recommending that this HB 48 be passed is scheduled to meet a half hour after this session with the Secretary of State to work on a new bill.

SENATOR HOUGH: When that bill is introduced for those of us who don't like the form of which it may appear it can be further amended. Am I correct?

SENATOR BOND: That is my understanding of the procedure.

SENATOR HOUGH: Subject to the full swing of the legislative process.

SENATOR BOND: It is.

Senator White moved the rules of the Senate be suspended to allow HB 48 be put on third reading and final passage at the present time.

Adopted

### Third Reading and Final Passage

HB 48, Extending filing deadlines of the financial disclosure law.

Adopted

### INTRODUCTION OF GUESTS

SENATOR JOHNSON: Mr. President and members of the Senate I am pleased to introduce to you my daughter, Terri Johnson.

SENATOR ST. JEAN: I am proud to have my father, Jim St. Jean, and my grandmother, Mary St. Jean, here.

### INTRODUCTION OF SENATE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered #6 through #9 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees

Adopted

### First and Second Reading and Referrals

SB 6-FN, To provide 3 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor. (Disnard of Dist. 8 - To Executive Departments).

SB 7, Granting degree granting authority to the Thomas Moore Foundation. (Roberge of Dist. 9 - To Education)

SB 8, Granting counties the authority to acquire and operate public utilities. (Bond of Dist. 1 - To Public Affairs)

SB 9, Relative to compensatory damages under the anti-discrimination law. (Bond of Dist. 1 - To Internal Affairs)

### REPORT FROM THE RULES COMMITTEE

SENATOR HOUGH: Thank you Mr. President. You have before you a proposed amendment to Senate Rule 17 and I believe you have copies of the Rules Committee hearing this morning and it is also my understanding that the Minority Leader met with members of the Democratic party and the Majority Leader met with members of the Republican party and also addressed this. Tomorrow we are going to ask that you suspend the rules to allow us to introduce this amendment to the rules which sets the date for filing in completing the information on bills and the final sign-off. As you know, on Organizational Day, by resolution, we adopted the rules of the prior session and that resolution held that the majority vote could amend the rules up until the third legislative day and the third legislative day will be on February 5th, so the only thing that we're going to ask you to consider tomorrow is the establishment of Rule 17 a, b and c as before you and it contrasts the proposed cut-off dates as opposed to those in the last session. The balance of January, the rules committee will meet with members of the public and all members of the Senate and we want your input on how you want your Senate Rules to appear when we finally adopt them on the third legislative day, February 5th. We would ask that you look them over very carefully; if you have questions contact us and we would ask tomorrow that we adopt Rule 17 as outlined before you.

### RESOLUTION

SENATOR PRESTON: I move to suspend the rules, dispense with any notice in the calendar and public hearing, to allow consideration on the floor at this time of a Senate Resolution.

SR 1, Urging passage of the Clean Water Act.

SENATOR PRESTON: Mr. President, it is timely today, this pertains to the clean water act, a bill that was previously vetoed, known as SB 1128. It had been vetoed by the President because it contained monies for subjects other than just the clean water programs throughout the country. To the State of New Hampshire it means some twelve million dollars that's needed by the various cities and towns or their projects come to a halt. I understand that Congress has just passed the first phase of this bill and I just think that it's important that the resolution that we're voting on today gets further

notification to the Congressional delegation and the President that these monies are much needed and we urge immediate passage of signing of the bill.

Whereas, the United State Senate sponsored SB 1128, the Clean Water Act Ammendments of 1986, which was passed by the Congress and vetoed by President Reagan; and

Whereas, billions of desperately needed dollars for waste water treatment and water pollution control were lost to all the state; and

Whereas, the State of New Hampshire has lost \$12 million in promised funds for its water pollution clean-up programs; now, therefore, be it

Resolved by the Senate:

That the Senate of the State of New Hampshire urgently requests Governor Sununu and the State Congressional delegation to urge the 100th Congress to expeditiously pass the Clean Water Act Amendments as the first priority item of business at its next session, and urge President Reagan to sign the bill immediately upon its passage so that all the states may continue and expand their efforts to improve and protect the nation's valuable water resources.

Resolution Adopted. (2/3rds vote)

Senator Robert Preston  
Senator Charles Bond  
Senator Mark Hounsell  
Senator Roger Heath  
Senator George Freese  
Senator Ralph Hough  
Senator Edward Dupont  
Senator George Disnard  
Senator Sheila Roberge  
Senator Clesson Blaisdell  
Senator Jean White  
Senator Barbara Pressly  
Senator Mary Nelson  
Senator Rhona Charbonneau  
Senator Susan McLane  
Senator Eleanor Podles  
Senator William Johnson  
Senator Robert Stephen

Senator William Bartlett  
Senator James St. Jean  
Senator Franklin Torr  
Senator Joseph Delahunty  
Senator Elaine Krasker

SENATOR PRESTON: May the record show that 23 Senators have sponsored this resolution, not just Senator Preston.

SENATOR CHANDLER: Mr. President I think some mention should be made of a former Senate secretary who served over in the LOB for several years, Helen Stokes of Concord who just passed away last week. Maybe not everybody here knew her but, she held forth in room 112A and served the Senate well. I think we should express our regrets at her passing.

Senate rose for a moment of silence.

## ANNOUNCEMENTS

### STANDING COMMITTEE APPOINTMENTS

#### BANKS

Senator Dupont (R) Chairman  
Senator St. Jean (D) Vice Chairman  
Senator Hough (R)  
Senator Charbonneau (R)  
Senator Torr (R)  
Senator Stephen (D)  
Senator Disnard (D)

#### CAPITAL BUDGET

Senator Torr (R) Chairman  
Senator Nelson (D) Vice Chairman  
Senator Hounsell (R)  
Senator Chandler (R)  
Senator Roberge (R)  
Senator White (R)  
Senator Preston (D)  
Senator Krasker (D)

#### DEVELOPMENT, RECREATION AND ENVIRONMENT

Senator Hounsell (R) Chairman  
Senator Preston (D) Vice Chairman  
Senator Freese (R)



Senator McLane (R)  
Senator St. Jean (D)  
Senator Krasker (D)

## EDUCATION

Senator Disnard (D) Chairman  
Senator Hough (R) Vice Chairman  
Senator Bond (R)  
Senator Johnson (R)  
Senator Nelson

## ENROLLED BILLS

Senator Chandler (R) Chairman  
Senator Charbonneau (R)  
Senator Disnard

## EXECUTIVE DEPARTMENTS

Senator Bartlett (R) Chairman  
Senator Stephen (D) Vice Chairman  
Senator Freese (R)  
Senator Dupont (R)  
Senator Delahunty (R)  
Senator Disnard (D)  
Senator Pressly (D)

## FINANCE

Senator Blaisdell (D) Chairman  
Senator Dupont (R) Vice Chairman  
Senator Torr (R) Vice Chairman  
Senator Hough (R)  
Senator Podles (R)  
Senator McLane (R)  
Senator Delahunty (R)  
Senator St. Jean (D)

## INSURANCE

Senator Delahunty (R) Chairman  
Senator Freese (R) Vice Chairman  
Senator Roberge (R)  
Senator Charbonneau (R)  
Senator Bond (R)  
Senator Blaisdell (D)  
Senator Pressley (D)

## INTERNAL AFFAIRS

Senator St. Jean (D) Chairman



Senator Podles (R) Vice Chairman  
Senator Bartlett (R)  
Senator Dupont (R)  
Senator Preston (D)

#### INTERSTATE COOPERATION

Senator White (R) Chairman  
Senator Bond (R) Vice Chairman  
Senator Delahunty (R)  
Senator Heath (R)  
Senator Nelson (D)  
Senator Stephen (D)

#### JOURNAL

Senator Heath (R) Chairman  
Senator Charbonneau (R)  
Senator Nelson (D)

#### JUDICIARY

Senator Podles (R) Chairman  
Senator Chandler (R) Vice Chairman  
Senator Johnson (R)  
Senator Roberge (R)  
Senator Nelson (D)  
Senator Preston (D)

#### PUBLIC AFFAIRS

Senator Pressley (D) Chairman  
Senator Charbonneau (R) Vice Chairman  
Senator White (R)  
Senator Heath (R)  
Senator Krasker (D)

#### PUBLIC INSTITUTIONS/HEALTH & WELFARE

Senator Krasker (D) Chairman  
Senator McLane (R) Vice Chairman  
Senator Podles (R)  
Senator Bond (R)  
Senator White (R)  
Senator St. Jean (D)

#### RULES

Senator Hough (R) Chairman  
Senator Dupont (R) Vice Chairman  
Senator Bartlett (R)

Senator Preston (D)  
Senator Krasker (D)

#### TRANSPORTATION

Senator Preston (D) Chairman  
Senator Johnson (R) Vice Chairman  
Senator Hounsell (R)  
Senator Torr (R)  
Senator Heath (R)  
Senator Pressly (D)

#### WAYS AND MEANS

Senator Roberge (R) Chairman  
Senator Bartlett (R) Vice Chairman  
Senator Chandler (R)  
Senator McLane (R)  
Senator Stephen (D)  
Senator Blaisdell (D)

#### ANNOUNCEMENTS

##### LATE SESSION

Senator Dupont moved that the business of the day being completed, that the Senate adjourn to the call of the Chair 10:30 a.m., January 8, 1987.

Adopted

Adjourn

*January 8, 1987*

The Senate met at 10:30 a.m.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, grant to our Governor, wisdom and a keen sense of the needs of the People of this State!

May we also in this Senate and House so perform to the best of our several abilities!

Amen

Senator Chandler led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

## AMENDMENT TO SENATE RULES

SENATOR HOUGH: I now move that we adopt the amendment to our rule #17-A (a), (b) and (c) as we discussed yesterday and outlined for you. This sets the date for introduction, composition and sign off. The balance of our rules will be reviewed by the committee during the month of January and we would intend on the 5th of February to complete our Senate rules.

Adopted.

## AMENDMENT TO SR 17

17-A (a) No request by a member of the Senate for drafting a bill or a joint resolution, other than the general appropriations (budget) bill or the capital budget bill, shall be accepted by Legislative Services for processing unless the subject matter of the legislation has been filed with Legislative Services no later than Friday, (February 15) January 23, at 5:00 p.m.

(b) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill, unless the complete information necessary for drafting such a bill or joint resolution is submitted to Legislative Services not later than 5:00 p.m. on Friday, (March 1) January 30.

(c) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m. on Tuesday, February 17.

Adopted.

## ANNOUNCEMENT

SENATOR CHANDLER: I would like to arise for the purpose of making a correction in some of the remarks I made yesterday, so the Permanent Journal will be right. In nominating Emil Martineau for Doorkeeper, I said that he had moved to Claremont, which I had been informed was the case. However, afterward I found out that he did not move to Claremont, but he was just visiting there and he is still a resident of the great city of Berlin and the great county of Coos. I think that should be straightened out so that we will have the records right.

Senate President announced that the Senate will meet on the following days:

February 5 — for the Regular Session at 10:00 a.m.

February 10 — for the Governor's address on the Capital Budget at 1:30 p.m.

February 12 — for the Governor's address on the Operational Budget at Noon.

## HOUSE MESSAGE

### Request Joint Convention

The House of Representatives is ready to meet the Honorable Senate in Joint Convention for the purpose of hearing the report of the Joint Committee appointed to compare and count the votes for Governor and Councilors and the Inauguration of the Governor-elect, the Honorable John H. Sununu.

Recess

Out of Recess

Senator Podles in the chair:

## ENROLLED BILLS REPORT

HB 48, Extending filing deadlines of the financial disclosure law.

HB 49, Relative to filling a vacancy in the office of the county treasurer.

Adopted.

## RESOLUTION

Senator Dupont moved the Senate be in recess until February 5, 1987 at 10:00 a.m. for the sole purpose of introducing legislation, referring bills to committee and to schedule hearings.

Adopted

Recess

*Wednesday, January 21, 1987*

Out of Recess

Senator Dupont in the chair.

### INTRODUCTION OF SENATE BILLS

Senator Chandler offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 10 through 20, CACR 10 and 11 and SCR 1 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted

### First and Second Reading and Referrals

SB 10-A, Authorizing the construction of the Franklin-Laconia bypass and bridge over the Pemigewasset River and making an appropriation therefor. (Chandler of Dist. 7 - To Capital Budget)

SB 11-A, Relative to replacing the Hampton Beach seawall and making an appropriation therefor. (Preston of Dist. 23; Hollingworth of Rockingham Dist. 17; Parr of Rockingham Dist. 17; Malcolm of Rockingham Dist. 17; Pevear of Rockingham Dist. 17; Walker of Rockingham Dist. 17 - To Capital Budget)

SB 12, Relative to the operation of motors on Clarksville Pond in the town of Clarksville. (Bond of Dist. 1 - To Development, Recreation and Environment)

SB 13 - FN, Increasing the assets permitted in order to qualify for the expanded elderly exemption. (Chandler of Dist. 7 - To Public Affairs)

SB 14-FN, Relative to apportioning costs of cooperative school districts. (Chandler of Dist. 7 - To Education)

SB 15-FN, Relative to non-smoking areas in areas where food is served. (Chandler of Dist. 7 - To Public Institutions/Health & Welfare)

SB 16, Allowing the award of attorney fees, court costs, and reimbursement of collection agency fees in actions to collect debts. (Chandler of Dist. 7 - To Judiciary)

SB 17, Relative to landlords and tenants. (Chandler of Dist. 7 - To Public Affairs)

SB 18, Relative to the integrated bar. (Chandler of Dist. 7 - To Judiciary)

SB 19, Relative to the liability of a trapper for an unlicensed dog. (Heath of Dist. 3; Dickinson of Carroll Dist. 2 - To Development, Recreation and Environment)

SB 20-A, Relative to the Franklin-Laconia connector and making an appropriation therefor. (Chandler of Dist. 7; Freese of Dist. 4 - To Capital Budget)

CACR 10, Relating to: rule making authority of the supreme court. Providing that: supreme court rules are effective only when not inconsistent with statute. (Chandler of Dist. 7 - To Judiciary)

CACR 11, Relating to: terms of office of senators and the governor. Providing that: senators be elected for 6 years and the governor be elected for 4 years. (Chandler of Dist. 7 - To Internal Affairs)

SCR 1, Commemorating the Melvin Village Community Church in Tuftonboro. (Heath of Dist. 3 - To Public Affairs)

Recess

*Wednesday, January 28, 1987*

Out of Recess

Senator Bartlett in the chair.

#### INTRODUCTION OF SENATE BILLS

Senator Chandler offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 21 through 30, SR 3, SCR 2, and CACR 12 and 13 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees

Adopted

## First and Second Reading and Referrals

SB 21, Relative to administrative inspection warrants. (Hough of Dist. 5 - To Public Affairs).

SB 22, Prohibiting surgery on minors without parental consent. (Chandler of Dist. 7 - To Judiciary).

SB 23, Relative to wrongful birth actions. (Chandler of Dist. 7 - To Judiciary).

SB 24, Prohibiting abortions in the second and third trimester of pregnancy. (Chandler of Dist. 7 - To Judiciary).

SB 25, Establishing that human life begins at conception. (Chandler of Dist. 7 - To Judiciary).

SB 26, Prohibiting homosexuals from donating blood. (Chandler of Dist. 7 - To Judiciary).

SB 27-FN, Relative to the commemorative rifle or shotgun lottery. (Heath of Dist. 3; Dickinson of Carroll Dist. 2; Powers of Carroll Dist. 5 - To Development, Recreation and Environment)

SB 28-FN, Relative to naming an unnamed route between state Route 175 and U.S. Route 3, in the towns of Holderness and Plymouth, Route 175-A. (Hounsell of Dist. 2 - To Transportation).

SB 29, Relative to the appointment of a caretaker for the "Old Man of the Mountain." (Hounsell of Dist. 2 - To Development, Recreation and Environment).

SB 30, Relative to communicable diseases. (Chandler of Dist. 7; Ingram of Sullivan Dist. 4; Welch of Rockingham Dist. 10 - To Public Institutions/Health & Welfare).

SR 3, Relative to fetal pain. (Chandler of Dist. 7 - To Judiciary).

SCR 2, Applying to the Congress of the United States to call a convention to propose an amendment to protect the lives of the unborn. (Chandler of Dist. 7 - To Judiciary).

CACR 12, Relating to: meetings of the General Court. Providing that: the General Court shall meet biennially and receive mileage for not more than 90 legislative days during the session, but not after the first day of July following the biennial assembly of the Legisla-



ture. (Chandler of Dist. 7; White of Dist. 11; Freese of Dist. 4; Bartlett of Dist. 19; Hounsell of Dist. 2; Stephen of Dist. 18; Podles of Dist. 16; Heath of Dist. 3 - To Internal Affairs).

CACR 13, Relating to: terms of office for judges. Providing that: with the exception of supreme court justices, judges shall be appointed to 6 year terms. (Chandler of Dist. 7 - To Judiciary).

Recess

Out of Recess.

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until February 5, 1987 at 10:00 am.

Adopted

#### LATE SESSION

Senator St. Jean moved to adjourn.

Adopted.

Adjournment.

### *Thursday, February 5, 1987*

Senate met at 10:00 a.m.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, grant unto us all the strength to stand upon our own two feet as we carry on our work here in this session! Thank you Lord that we may have a clear conscience and enjoy a happy rest!

Amen

Senator Stephen led the Pledge of Allegiance.

#### INTRODUCTION OF GUESTS

SENATOR JOHNSON: First I thank Reverend Fisher for that prayer offering to help us all stand on our two feet, I appreciate that.

Senator Dupont and I have co-guests here this morning, the newest member of my family, Rebecca Allen, age six weeks, and her mother, my daughter Lynn Allen.

### INTRODUCTION OF STAFF

Don Pfundstein — Legal Counsel  
Marlynn Flanders — Committee Secretary  
Nancy Fogg — Committee Secretary  
Vel Masse — Secretary  
Susan McGarry — Document Clerk  
Doreen Sumner — Receptionist  
Lisa Hughes — Intern Research  
Steve Whitaschek — Intern Research  
Martha Pourier — Minority Messenger

### COMMITTEE REPORTS

SB 11-A, An act relative to replacing the Hampton Beach seawall and making an appropriation therefor. Ought to Pass with Amendment. Senator Preston for the Capital Budget Committee.

SENATOR PRESTON: I will be very brief. It is a subject that we are all familiar with, the Hampton Beach seawall, and I will let you look at some pictures as they go by. The Hampton Beach seawall engineering and design funds were appropriated in the 1983 session and reported back the estimated cost of the seawall. The bill was put into the last session to replace the seawall. It had hearings before the house appropriations, the public works committee in the house, the capital budget. It came on the Senate floor in unanimous consent of both bodies, went to the governor's office and because of the funding mechanism, the governor vetoed the bill. It went back to the house and was passed on a veto override. The Senate had adjourned so no action was taken. The body of the bill is now agreeable to everybody. The governor's office is satisfied that the funding, 50% highway and 50% parking for the revenues, is sufficient to handle the bonding of the seawall. It's essential that this does not go into the regular capital budget and come out as a legislative special. Because of timely passage, there are environmental concerns that have to be addressed, the corp of engineers, coastal zone management and the wetlands local conservation commissions. This bill is out first. It's the unanimous report of the committee that the seawall has to be addressed. Frankly, if you look at the pictures, it's razor sharp rust, children will think its fun to poke their heads through the seawall. We've got what you would refer to in business of insurances, an

attractive nuisance. If it was on your property, your insurance would be cancelled. For the sake of the tourists, the children and the citizens, It's something that I urge expeditious passage of at this time. Thank you.

SENATOR WHITE: Senator Preston, you have elaborated in your testimony about how the bill last time went to public works and appropriations and then over here in capital budget. Would you agree that it also went to Senate Finance?

SENATOR PRESTON: I apologize, Senator, I meant to indicate that it had four hearings which was Senate Finance. I would like to amend my remarks to include it.

SENATOR WHITE: When it went to Finance, I believe, would you agree that the funding when it came out is identical to the way the bill is currently being proposed Senator Preston?

SENATOR PRESTON: You are exactly correct and, whatever occurred in that committee of conference, nothing has changed. Those that had been assigned that committee of conference were told that was what the governor had wanted and it wasn't what he wanted.

#### Amendment to SB 11-A

Amend the bill by replacing section 1 with the following:

1 Appropriation. The sum of \$7,750,000 is hereby appropriated to the Department of Transportation and the Department of Resources and Economic Development for the biennium ending June 30, 1989, for the replacement of the Hampton Beach steel seawall with a concrete seawall similarly constructed to the existing seawall which adjoins it. This shall be a nonlapsing appropriation and in addition to any other appropriation for the Department of Transportation or the Department of Resources and Economic Development for the biennium. Each of the 2 departments shall receive 50 percent of this appropriation.

Amend the bill by replacing section 2 with the following:

2 Bonds. To provide funds for the appropriation in section of this act, the State Treasurer is hereby authorized to borrow upon the credit of the State not exceeding the sum of \$7,750,000 and for the said purposes may issue bonds and notes in the name and on behalf of the State of New Hampshire in accordance with the provisions of

RSA 6-A; provided, however, all of the bonds issued for the purposes of section 1 of this act shall have a maturity of 20 years from the date of issue.

Amendment Adopted.

SENATOR TORR: I move the suspension of Senate Rule 24 in regards to SB 11-A, relative to replacing the Hampton Beach seawall and making an appropriation therefor.

This bill went through the legislative process last session passing both the House and Senate. It had a hearing in Capital Budget on Tuesday, February 3rd. The subject matter is well known and to eliminate the necessity of another hearing, I am asking for suspension of this rule at this time.

Adopted. Ordered to Third Reading.

SB 12, An act relative to the operation of motors on Clarksville Pond in the town of Clarksville. Ought to Pass. Senator Hounsell for the Development, Recreation and Environment Committee.

SENATOR HOUNSELL: The committee held a hearing January 29, heard this bill, there was no opposition to it. What this bill simply does is remove the use of petroleum powered boats on the pond. It does limit and allow for electric motors from 10 horsepower or less to be operated. Upon discussion, we found out that this was a request of the only seasonal land owner abutter who is a resident on the pond. There was no opposition from the selectmen who were contacted by the sponsor to find that out. Chairman of the board of selectmen said that he felt it was a good idea. It is one of two ponds in the state that has a two trout limit; it's fly fishing only. Fish and game spoke in favor of this pond to allow the passage of this bill and we recommend its passage.

SENATOR WHITE: On line six of the bill it says any other type of motor shall not be in excess of ten horsepower. I wonder what other type of motor is allowed?

SENATOR HOUNSELL: The only other type of motor that they have now is an electric motor. I don't know of any that exceeds ten horsepower and I'm not sure that there are. Currently they are using an electric one.

Adopted. Ordered to Third Reading.

SB 19, An act relative to the liability of a trapper for an unlicensed dog. Ought to Pass. Senator Hounsell for the Development, Recreation and Environment Committee.

SENATOR HOUNSELL: This report is split, I would move ought to pass. This bill, I think speaks to fairness. We are talking about an enterprise for recreation, as the sponsor has alluded to, that is legally acknowledge to this state. Trapping is a sport that takes two to participate. A trapper cannot legally trap in the State of New Hampshire without landowner's permission and I would ask that you remember that point as we deliberate on the necessity of this bill. If you have a dog running during hunting season, he's doing so illegally. Conservation officers have the authority to shoot on sight any dog that is running during certain times of the year. This is done because dogs are known, and no one will argue that they are not known, to be a detriment to wildlife resource, in particular the deer herd. Trappers, although somewhat controversial and people get emotional when they discuss trapping, serve a positive purpose to the state and landowners. If it wasn't for trappers in the legal taking of beaver, you would have all kinds of detriment taking place on our land. I would like to quote from a letter that I received as chairman from Bob Carlson, who is the executive director of the New Hampshire Wildlife Federation. In it he points out this very important point; "The state already recognizes this principle of not having liability on unlicensed dogs, but it's so often motorists who inadvertently hit free roaming dogs from liability." What this bill will do is it will provide that trappers if they should catch a dog who is illegally roaming the woods, or being liable to any damage on that dog when they step into their legally set trap. I feel as I believe that many people, sportsman in this state feel, that this is a bill of fairness, that this bill should have your support and I would urge that this body would send this to third reading.

SENATOR PRESTON: Fellow Senators this comes out as a split report, coincidentally with three republicans for the bill and three democrats against it, and I don't want any interpretations made that this is a partisan issue, Mr. President. Things are going well and we are not going to lose our friendships over this bill, but we respectfully disagree with the proponents of this bill. I think it would be a bad thing for the trappers. I really don't know why they have requested this bill. There was, frankly, insufficient testimony to indicate to us that there was any problem. A dog licensed or unlicensed in this state is property. Frankly, I think this could open the doors to that small fraction of folks that might not be professional trappers,



that could abuse such a law. If you catch a dog, a licensed dog, that's not wearing his collar or license, you will assume he is unlicensed. The fish and game said that this would lesson the civic liability of the trapper and I understand that, but I don't think that's our responsibility. The trapper that was there, a very responsible gentleman from Salem, indicated that in a couple of instances this occurred to him where a dog, a dog I don't think he indicated licensed or unlicensed, and the dog is not aware that he is doing anything illegal. When he located the owner of the dog, he indicated that it would be limping for a while and that he would be willing to pay any of the medical bills, very responsible gentleman. The bill was opposed by those from the SPCA and members of the Humane Society and it was the interpretation perhaps of committee members that these people are always against trapping and one of the Senators asked Mr. Peter Saunders of the SPCA, are you opposed to legal trapping? and he said "certainly not Senator". So we didn't indicate any feelings of either side and I really don't see the need for this bill at this time and urge that you vote Inexpedient to Legislate.

Recess

Out of Recess

SENATOR HEATH: The intent of this bill is sort of tort reform for trappers. There is not or has not been a serious instance of a heavily damaging law suit to a trapper who has trapped a dog, but the potential is out there. If someone takes a dog that they haven't cared for enough to the extent of having the dog licensed and they've allowed him to roam free and he gets caught in the trap, then suddenly that's the most valuable dog in the world and they sue a trapper. There is no end to the potential what they can do if they get a soft-hearted jury. The trapper doesn't mind the responsibility under the law that he has now - if he takes a domestic animal, he is liable - but should he be liable for a domestic animal if the owner hasn't registered and hasn't controlled. It's the same as an unlicensed automobile or an unlicensed vendor on the streets of Concord or anything else and it seems to me that he ought to be relieved of that liability before we have another outrageous settlement. I think that's why they wanted it and I would urge you to support that. It has no effect on whether the people will be trapping. They're not going to go out, as I almost heard, and trap the dog intentionally. That's the last thing they want to do. It's also a problem when they get a domestic animal in the set. They're not going to add to or relieve the dog of any pain if he's caught in the trap. He's caught in the trap and his foot is pinched, no doubt about it. No more or no less of that will take



place with the passage of this; this simply protects the trapper, who is legitimately trapping in pursuing his industry, from the person who has not taken his responsibility to register the dog and turning around and bringing a heavy law suit on him as a result. I think its ultimately the fair thing to do and it is no different than a lot of the other tort reform and protections we put in against this kind of an outrageous settlement in other areas.

SENATOR HOUNSELL: Senator Preston, just a point of clarification on one issue, although there were people affiliated to the SPCA did they not affirm that they were not speaking as SPCA members but as individuals.

SENATOR PRESTON: Yes they did and I thought that they added more weight to my decision.

SENATOR HOUNSELL: Did you recall that fish and game was there in support of it and one of the points that they made, I think, would you not agree, was that under 466:42-B it says that who so wrongfully killed or maimed, entices, carries away a licensed dog shall be liable to its owner for its value in civil procedures. It said licensed dog, it doesn't say unlicensed dog, and that contention and their support of this was that this puts this law into the correct category as 466:42-B.

SENATOR PRESTON: Still, the fact is that, licensed or unlicensed, dogs are still property. That's really giving one-upmanship to a licensed dog and I don't think that makes any difference. The main point I heard from fish and game was that it would lessen the responsibility of the trappers. There was no real prevalent problem. Senator Heath just indicated that it may be tort reform to assist the trapper, but it's tort reform to have an effect that is really punitive of a dog owner and property owner.

SENATOR MCLANE: Senator Heath, when I left the committee meeting, I was under the impression that we were going to put in an amendment, which was asked for by the SPCA. Which was to, when the trapper made his final year end report of how many animals he traps, which apparently he has to send into the fish and game, that there be an additional box on that report which asks him to indicate how many domestic animals he had trapped in the year. Isn't it true that part of the testimony was that no one knew how many animals we were talking about.

SENATOR HEATH: Yes, that was part of the testimony and I don't think that adding that box can give you a much better idea. You

might have one dog that has been caught five times and you might have five dogs that have not been reported. Nonetheless, I have the amendment for the bill as I understand it procedurally would have to pass first, that be the event then I would be glad to offer that amendment.

SENATOR PODLES: Senator Heath, we heard of the groups that are against this bill. Could you tell us of the groups that are for this bill?

SENATOR HEATH: Senator Podles, there are no groups against this bill. There are individuals who went to some length to disclaim that they were taking the stand for the association which they have used the stationary for. Unfortunately, I thought that it was ironic. There is a group that is in favor of this, the Trappers Association, but there were no groups that spoke as representatives of their group and that testified against it and the individuals that went to a great length to say that they were not speaking for their association.

SENATOR HOUNSELL: Senator McLane, just to clarify a point once again, because, I think it is important, the people who were affiliated with the SPCA, did they not admit that they were not speaking for the society?

SENATOR MCLANE: Yes, they did.

Senator Heath moved the adoption of the floor amendment.

SENATOR HEATH: This amendment does two things. It puts in the reporting form that those people who testified against the bill offered and they suggested an amendment. In other words, the trapper takes a domestic dog and he must report it when he makes his report for the rest of his furs. It might also interest you, if you are not familiar with trapping, everybody that's trapping is trapping on somebody's land and they have to have permission. It's the only kind of outdoor recreation where you have to have permission up front, even if there is no "no trespassing" sign on the land, a trapper has to have permission. He has to notify the land owner when he is trapping there and the local conservation officer. This is probably the most watched and overseen of all the so-called outdoor sports. The other part of this says, and it puts the same test on the trappers, if the trapper is doing anything illegally, if he hasn't his name on his trap, if he hasn't filed with the land owner, if he isn't properly licensed to take the bear he's trapping, if he is illegal in any way, he loses that protection. Granting that same test to the trapper plus the

mandate that he report the taking of any animals, so that the state can get a better idea. Although, I think it will be only slightly better, an idea by filling out the extra blank on the form reporting the take of any domestic animals. It happens fairly rarely. We had someone testify that he had a hundred and fifty miles, I believe, of trapping lines from Salem up to Manchester. He had a very extensive one. I believe he said that he had two cats in all of that line in one season, which is, considering the number of feral cats there are, that's extraordinary.

SENATOR HOUNSELL: I just wanted to say two other things about this. No one is commenting on the positive or negative sides of trapping, I believe. I think Senator Preston has made that clear in his testimony that he is looking at this to help trappers. However, I contend that if they want the bill, it's their enterprise and, to quote from Mr. Howard Nowell in his testimony, he says, "Trappers, it takes two people to trap in the state of New Hampshire. It takes the land owner to give written permission to the trapper to trap on that land." I think the amendment addresses that, that if the person doesn't have written permission then he is illegally trapping, it takes a licensed trapper. The trapper has to pay a sizeable fee to trap. The trapper has to file a copy of written permission with the local conservation officer, has to file that before he is legal. The owner knows he's traveling on the land and the conservation officer knows he's on that land. All traps must be tended in the daylight hours and must be looked at at least every twenty four hours and the trap must have the name of the trapper on it. I just point this out, now that we have this amendment before us under roman numeral II, if any person trapping illegally. It's very, I would think, easy to be illegally trapping, if a trapper forgets to look at his trap in the day light hours, every twenty four hours, if his name isn't on the trap and he doesn't file written permission with the local CO, he is illegally trapping. What we are voting on is to have fairness and I would hope that this amendment takes care of any problems that anyone might have with the original bill.

#### Floor Amendment to SB 19

Amend the title of the bill by replacing the title of the bill with the following:

## AN ACT

relative to the liability of a trapper for an unlicensed dog and the trapper's report of catch.

Amend RSA 210:18 as inserted by section 1 by replacing it with the following:

210:18 Damage to Domestic Animals.

I. Any person causing injury or damage to domestic animals by the aid or use of traps shall be liable to the owner therefore; provided however, the trapper shall not be liable to the owner for damage or injury to an unlicensed dog.

II. Any person trapping illegally shall be liable to the owner of an unlicensed dog for damage or injury to the unlicensed dog.

Amend the bill by replacing section 2 with the following:

2 Report of Catch. Amend RSA 210:21, I and II to read as follows:

I. On or before April 15 of each year, every person licensed to take fur bearing animals shall file with the Executive Director a report of his catch for the current trapping season, including furbearers, non-furbears, and domestic animals. The executive director shall furnish blanks for the report which shall include information as to the disposition of all domestic animals so caught.

II. Trappers who fail to submit (furbearer) reports required by paragraph I or who submit reports later than April 15 shall be notified by certified mail by the executive director that they are delinquent. Such trappers shall be charged \$25 as a late filing fee. This notification shall also state if the reports are not received or postmarked by May 15 the trapper may be guilty of a violation.

3. Effective Date: This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

Senators Preston, Nelson, Roberge and Krasker wished to be recorded in opposition of the bill.

SB 27-FN, An act relative to the commemorative rifle or shotgun lottery. Ought to Pass. Senator Freese for the Development, Recreation and Environment Committee.

SENATOR FREESE: This is a piece of legislation that was introduced by Senator Heath in the 1985 session. The department of fish and game was delayed in implementing this commemorative rifle lottery bill because of the absence of a director and the time it took to establish a director of fish and game. The bill simply extends the date from June 30, 1987 to June 30, 1988 in order to establish this commemorative rifle lottery. We had no objection to the bill in the hearing and we hope you will pass it as recommended.

SENATOR HEATH: Shirley Adamovich and I and the Director of fish and game have already started working on this, Director Crabtree, and the thing is progressing very well and we hope that it will raise considerable amount of money for fish and game, but we do need the extended time limit in order to do it because of the difficulties the department ran into in the transitional period between directors.

Adopted. Ordered to Third Reading.

SB 29, An act relative to the appointment of a caretaker for the "Old Man of the Mountain." Ought to Pass. Senator Hounsell for the Development, Recreation and Environment Committee.

SENATOR HOUNSELL: This bill provides for an honorary appointment by the governor and council, for a care taker for the Old Man of the Mountain in Franconia Notch. This appointee would serve at the pleasure of the governor and council and under 3-B and 2 of the bill there would be no compensation. I introduced this bill after a lot of thought, because I didn't want to embarrass the gentleman I was thinking of at the time, and I don't think that I have. I believe that it is important for us to recognize when a citizen gives of themselves to this state. Mr. Neal Neilsen from the town of Plymouth since the early 1960's has been involved in taking care of the Old Man of the Mountain. The Old Man, as many people may know, needs a lot of attention. Mr. Neilsen makes periodic trips to the top of the Old Man, he goes over the front with all the ropes and cables that are necessary and inspects the Old Man for any damage, any movement to the rock. There are turn buckles up there. He has records and records the tension that these experience through a certain of time. They have to put epoxy in to keep ice out. It's a labor of love with Mr. Neilsen. Two years ago and then again last year, he came before the legislature asking for us to increase the penalty for any vandalism. I was very happy that the general court last year did increase that. Mr. Neilsen also, is a very important part to the pro-



motion of the state and to the Old Man, he travels around and today he is at a function with a civic group, where he is presenting what he does to the people and citizens who are interested. He is in demand. He has a traveling show where he goes around and shows pictures, slides and gives talks in a very positive way. He does this pretty much on his own. He does this and gets paid for it through contributions and whatever free will offering he might take. I think there is a need for us to recognize people as they do service to the state and I think it's a history of the state to do that. I would hope that we can pass this.

SENATOR BOND: There is no question that the Old Man is my most prominent constituent and there is no question that his existence is very much dependent upon an extremely dedicated and gutsy constituent of Senator Hounsell and I strongly support the legislation.

SENATOR WHITE: Senator Hounsell, I believe in the bill. I think it's a nice thing to do, I have no problem with that. I wonder if we put this in as a law, what happens if he climbs up with his ropes and has an accident? Does the state then become liable?

SENATOR HOUNSELL: I thank you for that question because that is a very important point. I apologize because that was a point I wanted to make. Mr. Neilsen is currently employed by the Department of Transportation and is the bridge supervisor. When he goes up to take care of the Old Man, he does that as a state employee. He goes there with a crew he is head of. The problem, which is not a major problem, is that the department of transportation pays for that, but the Old Man comes under the department of division of parks and I point that out just to inform you. But he is insured, while he is doing his duty, as a state employee.

Adopted. Ordered to Third Reading.

#### INTRODUCTION TO SENATE BILL

SB 31-FN-A, Relative to the department of health and human services, and making an appropriation therefor. (Blaisdell of Dist. 10; Hough of Dist. 5; Dupont of Dist. 6 - To Finance).

#### SUSPENSION OF RULES

Senator Hough moved that the Rules of the Senate be so far suspended to dispense with the reference to committee, the holding of a



hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading and open to amendment at the present time.

SENATOR JOHNSON: Senator Hough, do we now have in front of us legislation that is being presented because the legislature is in session as opposed to one of the special committees acting on this kind of request?

SENATOR HOUGH: Senator Johnson, you have a piece of legislation that allows the Senate to meet its responsibilities, wherein prior to this days action one of the joint committees was required to address a very serious problem.

Adopted. 2/3rd necessary vote.

SENATOR HOUGH: I would like to address the motion of ought to pass SB 31-FN.

You have before you today a piece of legislation that has been introduced and sponsored by the chairman of your finance committee, Senator Dupont and myself. To point a background, if you recall, we met in this chamber on January 5, and when we met we adjourned for recess to the call of the chair to meet again in February. The ABC committee, to which I have been assigned along with your chairman Senator Blaisdell and Senator Dupont, met on the 13th of January. At that time the department of human services requested, that once again, this committee that had a new composition again allow for an inter-departmental or inter-agency transfer. To meet the other increasing demands put on the agency or division of children and youth, as a result of the SB 1 which was passed in the last session. There are 16 pages of testimony of transcript of that hearing to which Senators Blaisdell, Dupont and myself questioned the agency. Why they had not brought this very serious situation to the attention to the Speaker of the House or the President of the Senate and why they hadn't worked with the chairman of appropriation or the chairman of finance so that we could have acted in meeting our responsibility to amend this for the providers service when we met the first of January. Their answer was not sufficient, it was not acceptable, but once again they found us in a box or placed us in a box. Part of this testimony was questions that we asked repeatedly - why a transfer at this point in time of 2.1 million dollars - and the answer was because we have no more funds available. There were talks of \$500.00 a day as charges for certain facilities in hospitals that court order placements were demanding. I think you have to understand

the basic question, the ultimate question: where are there individuals, are there individual family units in this state that have placements in them, and without being able to reimburse them the minimum, and I think well recognized and generally agreed, inadequate level of support to these families. The word on the 13th day of January, there would be families that could not provide heat for these individuals. Would there be families that could not provide clothing, could not provide shelter and could not provide food? The answer all through the testimony is, that is correct absolutely. There is no question that there will be, if you do not act today, human suffering. I can tell you that that ABC committee recessed and recessed again. We met with members of the House; we met among ourselves and we met with members of the department and we suggested alternatives and we had suggested various amendments to the request of the department. The reason that we'd been laboring this thing all well into before noon, was to protect the integrity of the body and our 400 members on the other side of the wall. The legislature is in session, the legislature has the ability to understand and to address and take testimony from the departments, and for any executive department to skirt the ability of this 24 member body to make a proper decision was an outrage. Had it not been that we were sufficiently satisfied that there would be individual human beings going without and there would be suffering, I can tell you that we would not have acted favorably upon this. The facts are we did act, and this is a joint committee of the legislature that is set up to act on your behalf when you are not in session. As far as the ABC committee, when certain things in terms of revenues, down turn in revenues, allow the legislature to have oversight with the governor and reduction of appropriation levels. That's what the initial legislation that established the committee was intended for. I think that there is a sufficient number of people in this room and in the room across the hall that would wish to bring that committee's jurisdiction and authority back to its original intent. All that being aside, what you have here before you is a piece of legislation that puts back the 2.1 million dollars that the ABC committee transferred in the month of November. Bear in mind, that the 2.1 that the committee approved in November had an 8 million dollar impact on the human services budget because of the level of funding of federal government in these support programs. This bill puts back the 2.1 million that we authorized on the 13th of January and if we do nothing now we have 16 million dollars of activity in human service that has been negated. Over and above that, there is another figure that is appropriated to children and youth, that brings the total in the vicinity of approximating 8 million and this allows them to continue their level

of support through June 30. The second section of this bill, as you look at it, has a negative impact of approximately \$200,000, but what that really does is maintain what we feel is your responsibility and it prevents the department from going to the ABC committee in the future to make similar adjustments which this body can fully come to understand and address. Finally, in the third section of the bill, we are again addressing a difference between the budget appropriation level and the demands of service in the medical grants program. Now what you have here is a 13.8 million dollar general fund appropriation to allow the whole department of human services to meet its obligations and continue its level of program support through the balance of the biennium. There had been suggestions, and if you look at the testimony, the rationale for the department was that this is a loan, of January 13, and in November it is going to be a loan to which we will pay back when the legislature is in session. Well, that is a cute choice of words and all that committee can do is authorize a transfer that had a 16 million dollar negative impact on total levels for programming human service. The department understood that we would act. The department and administration understood that we would act as soon as possible, and the dollars involved have not changed. We're talking about the figure in the vicinity of 13 million dollars. Now what we must come to understand is that we acted in the last session and passed SB 1 and we allowed that assumption of responsibility by the state for placements to be assumed. It has gotten out of hand and it has to come under review. It has to come under scrutiny and it has to come under a public policy determination by the policy committees of this body and of the other body. It had been suggested that we would do exactly what this bill does and everybody's in agreement in the numbers of dollars with bill and at the same time entertain, the 39 page policy change bill. The members of the minority party, the members of the majority party, the members of the speaker of the house and the appropriate committees in the House have met and they have met with members of the department and they have met with members of the administration and it has been well understood that we are at this point to do what this body is responsible for doing and it is well understood that, as we proceed into this session, that we are going to address correctly the legislation that allows us to be in this situation. The policy decision will come under close scrutiny by the respected members of this Senate that will set policy in this area and we will correct a situation that has gotten out of hand. We will do that with the full light of the legislative process. In the meantime, we will structure ourselves so that we can meet our obligations and continue to meet the service. I will tell you this, that there is no disagreement on the dollars appro-

priated in the manner in which they are appropriated. Were we to pass a major policy revision today, the ramifications through the balance of this year in terms of the appropriated dollars would be no different. You have all the time to do this correctly, it does not have to come in under the suspension of rules as it was previously suggested. This bill clearly places the dollars where they should be and that's all it does. I'll be happy to answer any questions. I trust that you will take the responsible action. This action we take today reaffirms the integrity of this body.

CHAIR: We are on SB 31-FN-A, you might note that the A is a new letter that we have been looking at, which means that this note, which has a fiscal note, also has an appropriation.

SENATOR HEATH: Senator Hough, I'm troubled with spending 13 million dollars, suspending the rules and short stopping hearings. If this was such an emergency, I will not debate whether it is or not because I'm not at all certain how much of an emergency, why didn't we do this at a previous session of the Senate to pass the emergency legislation that had a timeliness.

SENATOR HOUGH: Senator Heath, the answer to your question is, this is the reason that I have been outraged that a committee, a joint committee that is set up to act on your behalf when we are not here, was faced with making another decision when we were sitting here. If you bear with me, I can show you in the testimony where I asked the members of the department repeatedly, time and time and again, you knew the action that the committee had taken in November would only bring you to January 1, correct. That is correct right here. You knew in December, that in January you were going to need another like amount of money to get you into February 1. That is correct. Why didn't you speak with the then newly appointed chairman of Senate Finance and chairman of house appropriations. Why didn't you then address this subject to the new Speaker of the House and the new President of the Senate? We did not choose to go that route. That's the answer, that's the answer. We have a very serious problem and I tell you, it doesn't matter, 13 million dollars is as serious to me as it is to you, but when this legislature does not have and is not given the information and is not allowed to meet with the departments and to explore the problem, so that we can properly appropriate money and protect our membership, there is something wrong. I think that's the answer to your question, why was not the legislature made aware of the situation and why was not the legislature aware the 5th day of January what the emergency would be. I



would have had no problem. As I recall, we suspended the rules on the 8th of January to take care of a problem with Carroll County. It was a serious situation. We could have done similarly and then opened the process up during January when the committees were hearing and allow for the further information. The 2.1 million dollars ABC transfer, on the 13th day of January, should have been brought before us on the 8th day of January and let this full body make that judgement. As a member of that committee, I don't think you wanted me to act on your behalf while you were sitting here in session.

SENATOR HEATH: I noticed that this has three Senate sponsors and no house members and yet, for all purposes, it's a money bill. The constitution calls for money bills to originate in the house. Why is it that, without debating that that is a money bill, why is it that the house didn't initiate this, since this is obviously going to go before the house as well as the Senate, or no house members were signators to us to the Senate version.

SENATOR HOUGH: I will give you a very straight answer. Number one; I bring to your attention and I think I am correct and if I'm not I will stand corrected. This is an appropriation bill as opposed to a bill that raises money. We can appropriate in this body; if we were to raise money through taxation it would have to originate in the other body. I think you recognize the distinction there. There have been, in the last two weeks, discussions, meetings and negotiations with the department, the Governor himself, the Speaker of the House, the President of the Senate, Senators Dupont, Blaisdell and members of the house and everybody has been addressing this subject. They have been exploring this and the question of how we act. The point is that you understand that there were titles and numbers that were reserved and, quite frankly, they were reserved in case they were needed. I had been insistent from the beginning, let all of that take place, but in the meantime verify, recheck the numbers and prepare this document, so if it were necessary it could be introduced and used as the vehicle. The reason you have three Senators sponsor are that, right up until the late hours of last evening, there was still discussion of how we would proceed. It was decided that the Senate would act responsibly as soon as it met. This was the first moment we've met and this piece of legislation we intend to pass over into the house. I feel fairly confident that the four hundred members of the house will approve this piece of legislation. No one is quarreling with the numbers or the way it is drafted. They have the

same problem we do. They have members of their ABC committee that acted on their behalf while they were sitting. That really is the issue.

SENATOR MCLANE: Senator Hough, I was there on January 13th when this request came before the ABCC committee and something has been bothering me that bothers me in your speech today. It's that I feel that you are blaming Dave Bundy and the division for this problem. I wish that perhaps you would add that the costs are not something that have been generated by the division; they have been generated by the courts and by the school districts. In Dave Bundy's defense, it was the executive department that requested that he put in this request through the ABC Committee. I feel from re-reading the testimony and from listening to you on January 13th, that you were hard on the division for a decision that really was a decision that was made in the executive department.

SENATOR HOUGH: Senator McLane, I thank you for asking that question and allowing me to answer. If you look at the testimony, and I am sure that you probably can find my remarks because you have been looking while I have been trying to address the larger subject. But in these minutes, you will see that I indicated to Mr. Bundy and I indicated to Mary Mongan that I was not taking issue with them. I have worked very hard with them as members of this committee and as members of both the house and senate. I think that you will find in the testimony that I had said to them when we have given you an impossible task and we passed a piece of legislation knowing for a while that it wasn't properly funded and that it would allow for this entry procedure to expand for the impact on this State in numbers of this nature. It is always difficult and I don't want to get involved in who did what or who wouldn't let whom talk to whom. The facts are that the department had been given an impossible charge they can't handle. We never criticized the people in human service, I don't think there is a department that has more human compassion and works harder and is more concerned than Dave Bundy and the people at the Youth Development Center and the people at the Department of Human Service generally. But when we set policy and don't follow through with the proper mechanisms for them to discharge their responsibility, we give them an impossible situation and I thank you for asking that question because it is all right there in that testimony. It would not have been emphasized had you not raised that question.



SENATOR WHITE: Senator Hough, just as a follow up on what Senator Heath said, I think, when was your ABCC committee hearing?

SENATOR HOUGH: January 13th.

SENATOR WHITE: So that you have known about this problem since the 13th of January?

SENATOR HOUGH: Yes, and I indicate to you that we did not have the request on the inauguration day and the last time we were in session.

SENATOR WHITE: I agree, it's regrettable that they didn't come to the legislative leaders back in December, so that it could have been taken care of under emergency. However, don't you find yourself equally guilty of not informing the Senate that a bill was coming in. You expect us to do it the same way that you expected those people would have brought the information to you. Perhaps you owe the Senate a little obligation to let us know that this bill would be coming forth today, three weeks after the 13th of January?

SENATOR HOUGH: To answer your question, I think it's well understood that when we acted on the 13th, on your behalf, it was in the press that the next time this Senate sat, we would allow the body to substantiate what we had done on their behalf. I can tell you if you're wondering about this bill versus another bill versus another FN, there are other people in this room that can speak to that and the decision on this vehicle wasn't made. I was not made aware that we were going to use and go forward until 8:30 this morning when I arrived at the state house. I could have told you yesterday that they were exploring other possibilities and other actions, but I was not part of those negotiations. That was among the administration and the leadership. If you are talking about this bill, there really is no pride of authorship.

SENATOR WHITE: I just need some notice in the calendar that something would be coming forward today to be acted on, since it won't be to the house until next week anyway. On the fiscal impact statement, the total if you add it up is \$35,981,318.00 when you add all of the different accounts. I wonder, we have 13.8 million from the general funds and 16.7 million from federal, is that new federal money?

SENATOR HOUGH: Well, I'm not sure that I'm following you. Where are you looking?

SENATOR WHITE: I looked at the first two pages of the bill and those figures do add up. I just wondered if this was new money in all four categories, federal, private agency and general funds, or is this a cumulative total?

SENATOR HOUGH: Section 1 of the bill, \$5,568,151 is new general fund appropriation. Section 2 of the bill you have a negative factor under the general funds of \$239.991, as I indicated that action is action the body should take to preclude a further request from the ABCC. But I felt as if the numbers almost wash there as a negative impact. Section 3, general fund \$8,480 is new general fund appropriation \$8.4 plus \$5.5 minus \$239 is the \$13.8.

SENATOR WHITE: I agree, so that's all new money?

SENATOR HOUGH: Absolutely! That is new general fund appropriations and to that, will bring in under the programs the difference specifically in federal support. Further federal support, as you well know, these grants are set up in a formula, the more demand, the more commitment the trail follows through.

SENATOR WHITE: The total figure of the bill is \$35,981,000, if you add, because you're saying that the federal money is also new money, and the federal funds add up to a little over \$16 million.

SENATOR HOUGH: Total activity and some of that local, you know that too, Senator White.

SENATOR WHITE: I'm adding the four figures and it comes up to \$35 million. My question is, is that all new money?

SENATOR HOUGH: I would say that you are dealing with a \$19.2 million, total of new appropriation of all sources.

SENATOR WHITE: My question is, is the program we are talking about a \$35 million program, I guess that's where I am eventually getting down to. Because when you add those four pieces together, it comes out to \$35.9 million and what are we committing the state to and what is going to be done about. If we are only talking a six month period, I'm a little frightened.

SENATOR HOUGH: Well, you are going back to July 1, and the difference between the level of appropriations and any appropriation after, and the demand for service for which this addresses is a difference of, I'm saying a figure of 19.2 million.

SENATOR WHITE: That's the general funds, but you're excluding the federal funds.

SENATOR HOUGH: We will get this clarified. I know what your procedure is, I want to make sure that if it is the \$35 million that you say, that I would agree that that's what the ramification would appear to be. I want to make sure that there isn't something that I'm not aware of. In finalizing my answer to Senator White's question, as I had previously indicated, the prior transfers of 2.1 million dollars had a total negative impact on grant programs of 8 million dollars or each transfer of 16 plus million actually it was 8.6 in the numbers we're using to round that off to 17.2 million dollars. If you add up the figures, as Senator White did, you're showing \$35.9 million but you have to take what you previously had authorized but negated to put that back. Which agreed in your general appropriation bill, that there would be \$16 million in activity, but when you did the transfer as you negated that and by the new appropriation you reinstated what you previously have negated so you have to take that figure off from Senator White's total computation and that figure of \$19 million, which I indicated is what represents new money of all sources. I appreciate the opportunity to verify that once again with our professional staff and the numbers are right there.

SENATOR DUPONT: I would urge my colleagues to support the bill that now is on the floor. I, too, share Senator Hough and Senator White and a number of other Senators who have expressed concern over the program that has caused this problem. There is nothing I would like to have seen better than a division back in December and November when the initial transfer was placed in front of the ABCC to come forward to us and say to us, we have a tremendous problem here that has to dealt with. Unfortunately, that didn't take place and until, to be quite honest with you, I got involved with ABCC, that was my first inkling that something really had gone out of whack. I have heard some estimates, if we don't make some policy changes in how we handle this issue, we could be looking at a \$60 million a year program. I'm extremely concerned about what's happened in the last three weeks. I apologize for the delay in getting this piece of legislation to you, but unfortunately, the solution to this problem has been under a considerable amount of work over the last few weeks. I have available a copy of a HB that will make the policy changes so that we are not back in here again with the same problem in hand. I think what's important to consider is the recognition that there does need to be a change made and it is fairly unanimous among those who have been working on this. Whether or not we pass this today, the

spending of the money is going to go on and we have no control over this. It is court ordered placements that have caused the problem and right now the state has no say in how that is done. Also, our ability to go into other PAU's and transfer the money as the fiscal year goes on, and I expect it will be a couple of months probably before we can make the policy changes. Our ability to transfer money from other accounts is going to diminish as the monies in those accounts rapidly decrease. We have also terribly impacted some areas in terms of what monies they have left to operate on and the urgency is that the agency is going to run out of money if we don't do something. I think we have recognized the fact that this is a prudent way to go on this issue today.

SENATOR JOHNSON: Senator Dupont, you answered at least most of my questions in your brief testimony just now. I understand that \$19 million in new money is going into the division of the human services here now. Can you give us a break down as to what is the general fund and what are the sources of that money?

SENATOR DUPONT: First off, a correction would have to be made that the original appropriation to take care of this problem was \$6 million. That's what we had put in the budget this year. That was based on an estimate of what the previous year the local communities had spent on this issue. If you remember, we picked up this responsibility. So what you are really looking at today is an appropriation of \$13 million in additional monies to specifically address this problem. The \$6 that was already appropriated with the budget and the additional \$13 that we are looking at today to fully fund it.

SENATOR JOHNSON: Do I understand, you are using the figure of \$13 million now, I thought that somebody had just said \$19 million. What would be the break down?

SENATOR DUPONT: \$13 million in general funds, \$19 million altogether.

SENATOR JOHNSON: I'm now clear, just let me check it out here, see if my understanding is correct here. The source of the problem is that the amount of money budgeted for the state's responsibility regarding the settlement bill was something like \$6 million and that's falling short by some \$16 million or there about. We now need to come up with about \$13 million in additional general fund money in order to carry this division's responsibilities through the end of this

fiscal year and you also mentioned that you have a HB that hopefully will put some brakes or controls on this overall process. Is that right Senator Dupont?

SENATOR DUPONT: That is correct, I mean, I think what you have to look at is the problem. I will admit it didn't come on all at once. As you look at a graph of how the expenditures are going out, it is one that particularly goes straight up and the state's dealing with 400 more placements right now than we dealt with in the previous year. That's over what we had anticipated. The problem results in the fact of two specific points, one we had no control over where the placements are made and we don't find out about it until we get the bill. That's how loose the system is right now. You have a third more providers providing these services now than we did before the settlement. Obviously, the community that provides these services has recognized that this is a good place to develop some services because there is no control over the flow of money. The existing providers cost has gone up almost 30%. In other words, now we have a situation where we can get into this program that has no control over what they are going to pay if court orders it we send the bill and that's it. So, it's a multifaceted problem and a piece of policy legislation that will be coming in addresses all of those concerns. There will be, I'm sure, some controversy about the bill, and the opportunity to do that is when the policy bill comes through. What we are addressing today is a bill that we are not going to have any choice over whether we pay them or not.

SENATOR JOHNSON: This \$13 million will certainly affect the projected surplus at the end of this biennium, am I right?

SENATOR DUPONT: No question!

SENATOR CHANDLER: Senator Dupont, to put it one way in respect to placements and in expenditures, aren't we somewhat at the mercy of the judges?

SENATOR DUPONT: To be perfectly honest with you at the present time, we are, and the piece of legislation that will be coming in will still provide them with some discretion over placements, but we will be able to make some recommendations as to what we feel is the most appropriate placement for these children.

SENATOR WHITE: Senator Dupont, actually Senator Johnson asked a question in regards to the surplus that we keep hearing about, basically that surplus will be decreased by the \$13.8 million.



SENATOR DUPONT: That is correct.

SENATOR WHITE: So that we are now down to about \$14 million surplus.

SENATOR DUPONT: I don't know that number, but the fact of the matter is, we are not really decreasing the surplus because a portion of those monies that we appropriate have already been spent. The surplus figure is wrong because we have that liability there, whether it will pass this appropriation today or not.

SENATOR HEATH: I've tried to put this amount of money into perspective, and in doing a little arithmetic, it seems that you could build two hundred \$70,000 homes, brand spanking new \$70,000 homes, with this amount of money. That's roughly the equivalent of building a brand new town of Sandwich. We're doing this by suspending the process because we have to do it right now. We have been told in the testimony here today that there have been meetings with the Governor, Mary Mongan, Dave Bundy, House leadership and members of the House of Appropriations. We have been told that Bundy's agency didn't come in so that we couldn't do this last time and ask for this money, although, we were aware of it. Frankly, what we have done is put a lousy piece of legislation into business. It got out of control and now we're setting about, out of the public's view, to bury the thing like a dog buries an old bone. For that reason I am going to have to vote against it.

SENATOR DUPONT: Senator Heath, would you also recognize, what you fail to recognize and that I would ask you as a business man, wouldn't you recognize the fact that we are accruing these bills and we have a responsibility to pay for it, whether it's a bad piece of legislation or not. We have kids that are in placements right now in and the bills are accruing; a building that's ruined, wouldn't you say that it's not responsible for us as legislators to say, not appropriate this money, not pay the bills and put both foster care homes and these placements in jeopardy?

SENATOR HEATH: As a business person and individual, I thoroughly agree that we should pay our bills. However, we should do, it as long as we are doing it, by reaching into the taxpayers pockets in one form or another. We should do it through due process, and thats what I'm talking about as process, not that we don't pay bills that we have accrued through our own stupidity.

SENATOR DUPONT: Would you recognize also, that due process sometimes, because of the urgency of this, has to be put to one side?



SENATOR HEATH: I guess that you're making an assumption about the urgency. The urgency wasn't there the last time we met; the urgency wasn't there when we had all these other meetings that we heard testimony that took place; suddenly the urgency is here today and I'm not convinced that it couldn't wait until the next time we meet and go through due process.

SENATOR HOUNSELL: I was very impressed with the testimony that I heard from Senator Hough. I think he spelled out quite eloquently the situation, the problem we have and the problem we have to deal with and be responsible. I had hoped and I'm convinced that this Senate will, in tough times, act responsibly. I believe it will today and I intend to support this passage at this time. I listened to Senator Dupont talk about a need to correct this problem and I concur and I assure you that I will be looking very closely at any changes and any attempts to modify this and, I would hope, to make it better and I would point out by information from Senator Dupont just a moment ago that, when the local communities were doing this, it was \$6 million. In just one time that the state has taken over, it has inflated to \$18 million. I'm not saying that there haven't been increases, but I'm saying that there is an example of what happens when local funding is circumvented for more state dollars. It has gotten out of control. I'm convinced it's out of control and we have to do something about it. We have obligations to pay our bills and that's what we are talking about at this time. I think that it is an extraordinary amount of money; we are talking \$13.8 million or so from the general fund. The past few days, everyone has been talking about rainy days and surplus. I will offer that it is raining today and if we don't go forward and attempt to correct the problem, we will be facing a monsoon.

Adopted. Ordered to Third Reading

### COMMITTEE REPORTS

SB 9, An act relative to compensatory damages under the anti-discrimination law. Inexpedient to legislate. Senator Preston for the Internal Affairs Committee.

SENATOR PRESTON: When I first saw who was reporting out this bill, I said, "Why me." This piece of legislation is being opposed and recommended Inexpedient to Legislate by a majority of the committee. I do not want our opposition to this bill as any interpretation to condone unlawful discrimination practices. The legislature has never

intended to make such awards for the compensatory damages through the human rights commission. That was determined in a supreme courts decision but a few years ago. Just imagine, now, this bill permits the state commission from human rights to assess damages and payment to the complainant of damages caused by such unlawful practice, including compensation for humiliation, suffering, embarrassment, medical expenses and other costs incurred by the complainant. They asked at the hearing, just what does embarrassment mean? A very attractive women testified at that hearing and as she was leaving, I said, "excuse me, but you're a very attractive woman. Did I embarass you?" Fortunately, she said, "no, I appreciate the compliment." But had I embarrassed her, I said, "would I have been responsible, would I have had a complaint filed against me if you thought I had embarrassed you and could have been fined \$5,000." I don't say that to be facetious, but the legislative research here indicates that this wording is confused with the wording in the law, for punitive damages as well as compensatory. I don't even pretend to understand them, but just think the administrative body, the human rights commission, would be the ones who received the complaint, they're the investigators, they're the counselors for the victim and they're the enforcers. They act as judge and jury, which at this time would be very unique to our system. It could not be, in my mind, an objective body in that role. \$5,000 may not be enough; it may be unfair to a victim to set a \$5,000 ceiling, when such harm could be done. the humiliation, the mental anguish and suffering one might go through. What does constitute embarrassment? I think also that as far as the current set up, as far as the human rights commission is concerned, that we would add to an already overloaded case load. Also, if this law is passed, should we not have added a fiscal note because the human rights commission has been before us pleading additional staff to handle a huge backlog of cases. The staff would be inadequate to handle the addition of cases that would come before them. Some folks feel such subjects as this should be addressed and so do I. But this is the inappropriate bill, has the inappropriate wording. It poses more questions than it will resolve. Though the intent is idealistic, the reaction caused by passage is going to create more problems and the lawyers tell me that the language is confusing. I know that support of this bill sounds like the right thing to do, but I say to you that to address the issue, it should be in another day in another way. The statutes with the court, the judge and the jury are insufficient; let's change them. This is a whole new method and approach. I think one state in the Union, Kentucky, has such a thing and their administrative procedures and laws are different than ours. I know it might seem politically astute to stand

before a TV camera and the press today and say, we're opposed to unlawful discriminatory practices. Well, so am I, every Senator is opposed, I hope. If the statute needs change, let's change it; this isn't the way to do it, thank you.

SENATOR JOHNSON: Senator Preston, would you feel more comfortable with this bill if the rather subjective terms - humiliation, suffering and embarrassment were eliminated and that the bill would only call for compensation for medical expenses and other costs incurred by the complainant as a direct result of such unlawful practice.

SENATOR PRESTON: With a cap of \$5,000.

SENATOR JOHNSON: Yes.

SENATOR PRESTON: I think that could be a double X toward to the victim as well. I think that could be a doubly unfair-edged word to the victim. I think it could do in reverse what this sponsor intends to do with this bill. I understand the concern with humiliation and embarrassment and how broadly you can interpret those. But the \$5,000 cap even bothers me. If someone is sexually harrassed and suffers mental and physical damages, it could be far in excess of \$5,000. There are civil processes that you could do to address that problem, that you could speak of.

SENATOR JOHNSON: Part of your reasoning to be opposed to this had to do with these subjective terms. Your point was that you couldn't put a dollar value on embarrassment and I agree with that. My question, I'm not sure you have really have answered it, would you feel more comfortable with this bill if those subjective terms were eliminated and compensation was restricted to medical expenses and other costs incurred by the complainant as a direct result of such unlawful practice.

SENATOR PRESTON: No, Senator, I wouldn't. I just, the whole establishment of hearing the complaint, representing the victim and making the decision. I think, flies in the face of our current system to address that grievance I think we should address it through the regular statutes and court system.

SENATOR DUPONT: Senator Preston, I remember hearing this bill last session or a bill very, very similar to this. My understanding at the time and I think that you could answer this for me, medical expenses presently can be awarded, if I'm not mistaken?

SENATOR PRESTON: Forgive me, I don't have a case here because I am not a lawyer, but the supreme court did decide that medical damages could be awarded to the administrative body through the New Hampshire Human Rights Commission.

SENATOR DUPONT: Thank you.

Senator Bond moved to substitute ought to pass.

SENATOR BOND: It's illegal in the state of New Hampshire to murder someone, and there is a penalty. It's illegal to speed in posted speed zones, and there is a penalty. It's illegal according to RSA 354:A8 for a number of different definite specified areas which there is not to be discrimination. But unfortunately, in many cases where there is discrimination, there is no penalty. There is no reason for a fellow not to agree that he has discriminated in many cases, because there can be no penalty for having not. You heard, those at the committee heard of the case, if the employee was given the option of abortion or continued employment. That's a form of discrimination that is discussed by the law. This bill discusses embarrassment, but not as a form of discrimination. If you notice the context, the bill calls for unlawful discriminatory practices and the payment of complaint of damages shall be established in those cases where it is necessary for the Human Rights commission to determine whether or not there is a discrimination that has occurred. I was asked to put this bill in and I agreed to do it because I believe that there should be some form of penalty in a discrimination situation. I did, however, insist that there be some form of cap on the amount of the penalty that could be laid against the defendant. I have no problem with removing the word embarrassment from the statute and if this passes and goes to the House, I would certainly work to remove that word because it has offended some people. The question is other than for medical expenses and actual expenses incurred in those situations that expenses incurred, there is no reason for a person to not concur and simply say that they will not do it again. There is no penalty assessed. I have to agree that there are certain situations in which the commission needs to tighten up its procedures because there are those who are at a distinctive disadvantage when it comes to dealing with the commission, particularly small employers in distant parts of the state such as mine, who have to travel to Concord at the expense of their business in order to deal with the problems of a complaint of discrimination. I believe that that is something, however, that can be dealt with by procedures of the commission and is not a valid criticism of whether or not they

should be able to impose certain penalties for certain violations of the statute. So, I would urge you to substitute ought to pass for inexpedient to legislate. Thank you.

SENATOR KRASKER: Senator Bond, am I correct that there is a precedent for this kind of compensation because, at the present time, there's compensation for general employment discrimination. In other words, back pay, denial of promotion might be rectified. Am I correct that there is a precedent for what is being requested in this bill?

SENATOR BOND: Senator Krasker, in those situations where there is material loss that can be demonstrated, that can, in fact, happen.

SENATOR KRASKER: May I also ask in the case of instances outlined by this bill which might be addressed generally as cases of sexual harrassment, there is no compensation?

SENATOR BOND: That is correct.

SENATOR NELSON: Senator Bond, I would ask, how did you arrive with this \$5,000 figure, why did you choose \$5,000.

SENATOR BOND: \$5,000 was an arbitrary figure that I arrived at by discussing with the director of the commission as to what they thought a maximum reasonable amount could ever be necessary.

SENATOR NELSON: In the history of the commission perhaps, there have been problems before and suits that have been brought by the commission and maybe have been reviewed by the supreme court, has there been any problem in terms of any decision reached by the commission with the supreme court?

SENATOR BOND: Senator Nelson, in two cases that I'm aware of, the commission filed reason to penalize the defendant and the cases which went to the supreme court were found to be not legal for them under present statute.

SENATOR NELSON: Thank You.

SENATOR JOHNSON: Senator Bond, would you agree that eliminating the subjective terms humiliation, suffering and embarrassment from this bill would strengthen its chances of passage in the Senate?



SENATOR BOND: Senator Johnson, I would, but then you would be back to square one. You would be back to where you are now which is for medical expenses and costs incurred that presently is available under the law. This is for those intangibles which aren't addressed by identifiable expenses.

SENATOR DUPONT: I rise in opposition to the motion on the floor. I do so, recognizing the fact, that I believe working with one that may cloud the fate with one who is in there. I think we have a system here, through the court system, that can address issues such as this and do it in a fashion that will recognize what the true damage done to an individual that has gone through this process and has been harmed. \$5,000 is an arbitrary figure and I myself can think of many cases where perhaps it ought to be greater. I don't think it ought to be up to the commission to determine what is an appropriate amount. I think it belongs in the court system, not in the hands of the commission itself.

Roll call requested by Senator Nelson.

Seconded by Senator White.

Those in favor of the bill: Senators Bond, Heath, White, Pressly, Nelson, Charbonneau, Johnson, St. Jean and Krasker.

Those opposed to the bill: Senators Hounsell, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, McLane, Podles, Stephen, Bartlett, Torr, Delahunty, and Preston.

9 Yeas

15 Nays

Motion failed.

Committee Report Adopted

SCR 1, A Resolution commemorating the Melvin Village Community Church in Tuftonboro. Ought to Pass. Senator Heath for the Public Affairs Committee.

SENATOR HEATH: This bill speaks for itself, its commendation and recognition of a very early church in my district and I would urge you to pass this bill. There is no appropriation nor suspension of process.

Adopted. Ordered to the Third Reading.



SB 8, An act granting counties the authority to acquire and operate public utilities. Ought to Pass. Senator Pressly for the Public Affairs Committee.

SENATOR PRESSLY: Public Affairs voted unanimously to pass this bill. It simply adds county to the definition of municipalities. It basically permits counties to operate what is now referred to as municipal utilities. Preferably a town, village district or city may operate a utility and be exempt from the PUC regulations. However, if they wish to sell any excess to anyone outside that geographic region, they would be considered a public utility and fall under the PUC regulations. This bill would allow a consortium of cities and towns within a county area to operate and be exempt from PUC regulations, after the commission, upon proper notice and hearing, has determined that it is for the public interest to do so. It is basically enabling legislation to create an option to be available for the counties. Sponsor of this bill, Senator Bond, myself and other members of the committee, would be happy to try and answer any questions that the membership may have.

SENATOR BOND: I rise in support of SB 8. To understand why I have introduced this legislation, I would like you to realize that I represent what's probably 20% of the geographic area of the state of New Hampshire. The city of Manchester has three members in this body; City of Nashua has two members in this body. It gives you some portion of what I have to deal with, in terms of concerns in general. I have one community, Berlin, which has population of 12,000 and is probably large enough, in fact, to put together for itself a municipal utility, particularly, specifically, for electricity. All of the other communities, the 29 towns, none of them large enough to actually field a municipal utility for themselves. I have one paper mill in one town, not Berlin, in my district, which presently uses in the vicinity of 20 megawatts of electricity a year. Their electric bill in 1986 was approximately \$8 million. There is a 24% increase in the electric rates of public service to them coming up, which will mean another \$160,000 a month. Paper industry is not high tech and it is not broad profit. There's a result. I look at the statute and realized that, even with what had been passed in the last session, there is not sufficient clarity in the language of the statute to allow Coos county or any other county to establish a municipal utility. The purpose of this, as you will see if you look through the bill, is that it simply adds county in certain areas of definition and certain rights. It's the option of the public utilities commission whether Nashua, Manchester or Coos County establishes its own municipal power company. This

does not, in fact, allow anybody to walk away from the public service of New Hampshire network. It does, however, make it possible for someone to do initial planning and approach the PUC with that. Given a worst case senario with public service going into bankruptcy, the industry in my district would be devastated. The only way that we could deal with it would be to find other sources of power. The only option that we would have, would be, as the present statute exists, to go with whatever the trustee and bankruptcy or the bankruptcy court chose to say was what the return on the assets of the corporation should be. Therefor, by passing this it would make it possible for us, as a county, to deal with a trustee and bankruptcy in terms of the ability to establish our own utility and thereby save our own economic hide. I point out that there are several other rural counties that this has a potential for. But my specific concern is that it be made possible for my very rural area to be able to do what you and your urban areas can do now, and that is to establish a municipal utility in the event of an unfortunate circumstance for Public Service.

SENATOR DISNARD: Senator Bond, do you agree the P.U.C. is there to protect the rate payers?

SENATOR BOND: That's its purpose as I understand it, yes sir.

SENATOR DISNARD: Why did Senator Preston point out, to eliminate the public utilities from control by the public utilities commission, if the citizens are to be protected.

SENATOR BOND: Senator Disnard, the present statute provides that a municipality can, with the permission of public utilities commission, establish and operate its own system with its own rates within a municipal district. All I am asking is that that same permission be granted to an area which is made up of 29 incorporated towns, 10 unincorporated towns and 1 city of 12,000 people, because we don't have the density in population to be able to do that.

SENATOR DISNARD: I understand that. I'm not as knowledgeable as you in public utilities, but who is to protect the rate payers and the citizens in the event the public owns the utility as compared to if it was privately owned.

SENATOR BOND: In a municipality, the city council and the city government manage the affairs of the municipality, in such a way as they may chose to do. Under this statute, the county convention or delegation as we usually call it, and the county commissioners would

be the managing entity of the corporate structure so that you have the same input for the utility that you have for all the other county government managements.

SENATOR DISNARD: Would you agree that's like the fox guarding the geese?

SENATOR BOND: No, I would not.

SENATOR PRESTON: Senator Bond, I like your bill. My question is, that if Portsmouth and Dover or some areas in the north country, that were contiguous but in different counties - Rockingham, Strafford, Coos, Carroll whatever - this mentions within a county. How would that affect the situations that you say.

SENATOR BOND: This doesn't deal with municipalities with the county, it deals with the county and the county government. It does not mean that the county would have to include all the municipalities if they didn't chose to be a part of the overall organization.

SENATOR PRESTON: Could it include the participation of other communities that were in another county, for support, or whatever.

SENATOR BOND: If it were to be outside of the municipalities defined by statute, then the public utilities commission would have to set the rates for those sales outside the municipality.

SENATOR PRESTON: But it would be allowable if it went to the board of another county under this bill, that's my question?

SENATOR BOND: Abutters, I would assume, could purchase power from the municipality, but the rates would be subject to approval by the public utilities commission.

SENATOR PRESTON: But it still says any county may acquire or establish? It wouldn't allow two counties to do it together?

SENATOR BOND: That is correct.

Adopted. Ordered to Third Reading.

SB 30, An act relative to communicable diseases. Inexpedient to legislate. Senator Krasker for the Public Institutions Health and Human Services Committee.

SENATOR KRASKER: The members of Public Institutions Health and Human Services voted unanimously Inexpedient to Legislate on SB 30. We received testimony that the purpose of the bill was to

require reporting of acquired immune deficiency syndrome and herpes, virus #2 to be reported to the division of public health services. We learned from Dr. David Danas, who is the chief of the bureau of communicable disease control, that this reporting is an ongoing program. It has been occurring since 1983. It is already in effect so it was the decision of the committee to report this bill Inexpedient to Legislate.

Adopted.

### RULES COMMITTEE REPORT

SENATOR HOUGH: As I indicated on January 8, today would be the third legislative day and as the resolution on organizational day indicated, on the third legislative day we would adopt our Senate rules. The rules committee, having met a number of times in the month of January, in that we recessed, and having extensive public hearing, taking input from, first, members of the public with their concern with the rules and the ways of which we conduct our business, now suggest amendments which you will find in today's calendar on page 5. You will recall that we adopted in January the rule #17 which established the dates. You also have a copy of the rules as they presently exist including those changes that were adopted in January. #14a has to do with reconsiderations, what it does is tighten up and clarify in our rule those procedures under which we had been operating in the past, but it always presented a question of interpretation. #14a, in effect, gives a one day limitation for a notice of reconsideration on a deadline or a transfer date. It would prevent a member from making an attempt, after we got into the cross over period, of attempting to pull back a bill. We had an extensive discussion of that and we feel that it should be in your rules so that it is clear and any attempt that may be brought to question could put in jeopardy the legislation. #27 is very simple. It just changes the name of the committee of what used to read Health and Welfare to Committee on Public Institutions, Health and Human Services, and that is consistent with the agency's name. #17d further protects the membership by allowing them the opportunity to make a request for an introduction past the deadline to the rules committee, where they could act favorably by majority vote and, if they did not act favorably, the member would also have the ability, as they have always had, to request the suspension of the rules by 2/3 vote. Recognizing the composition of the rules committee, with both the majority and minority leader, Senator Krasker, Senator Bartlett and myself, I think it's well understood that that's probably as balanced a

committee that this body could form and the intent is to protect the rights of the membership at all times and allow for introduction and discussion of any subject matter without prejudice, if you will. These are the Senate rules and these are the suggestions we wish to have you entertain and adopt today. You must understand that the rules committee has met with members of the house relative to the joint rules; there is ongoing discussion with the house on joint rules. Unlike the past, joint rules are really what is important. We are cautious on adopting them in haste and we are centering on discussion of the transfer from the first year to the second year with annual sessions. First term, if you will, with annual sessions was a trial period. I think there is a degree of concern; there was criticism. We haven't gotten to a point where we want to suggest that you adopt the joint rules yet, because we want to try to make sure that we can make the transition a little more smoothly. That is not today's subject, but I wanted to report to you that we are still working to get better joint rules, cleaner joint rules and it is my commitment to you that we will not attempt to pass joint rules until the committee is satisfied that the integrity of this body and your rights, as 24 or as individuals, in relation to our 400 members right here on the other side of the wall, are protected until we are comfortable that we are going to work on joint rules. One other minor point, Senator Chandler pointed out to our Clerk on rule #8, that the word "undecided" should be decided in the fourth line, shall be in order of the same stage of the bill or resolution. That really is a typo. These rules, as far as this is concerned, were adoption of the 1985 rules; the 1985 rules were an adoption of the 1983 rules, and in 1983, in fact, was undecided and they should be undecided.

SENATOR JOHNSON: My question concerns an amendment to #17d on page 5 of the calendar here. Do I understand that #17d gives new authority to the Senate rules committee, that does not now exist.

SENATOR HOUGH: The Senate rules committee historically had had the ability to allow the introduction of legislation after the deadline by majority vote or 2/3 of the body up until, I believe, two sessions ago. This is a suggested change that will go back to the rules that formerly had governed this body and you also have to recognize that there is a similar rule in the House rules and it would be part of the negotiations in an attempt to establish joint rules. It is different than last session, but it is not different than what has traditionally been rules of the Senate.



SENATOR JOHNSON: But at the end of your comment there, you brought in the House rules and Joint Rules. Are you now suggesting that this Senate rule is being proposed in order to reach some kind of accord or agreement with the joint rules?

SENATOR HOUGH: No, that isn't. I'm saying that they also have similar joint rules; the House has a rule like that. Committee on rules felt that this would allow a better avenue for introduction after the deadline and it was recommended unanimously that they offer it. It does nothing in terms of taking away your ability to introduce legislation. It allows for a greater degree of flexibility. It is not different in what has been traditional in the Senate.

SENATOR JOHNSON: Tell me, I don't understand how this would provide for additional flexibility or protection of the Senate member because now a majority of the Senate rules committee could halt such a request. Is that true?

SENATOR HOUGH: No, they could not; they could not adopt and then the member has the same rights and privileges that they've always had.

SENATOR JOHNSON: In other words, if the majority of the Senate rules committee takes an action, that that then could be overturned by 2/3 vote on the floor? Is that what this is saying?

SENATOR HOUGH: Rules committee can learn to make the introduction of the bill by majority vote. What they fail to add is that the state has the right to request the adoption of the bill by suspension of the rules requiring a 2/3 vote.

SENATOR NELSON: Senator Hough, I wanted to ask you a question about #24 of the Senate rules. Just wondered if in the testimony anyone made any comments on that particular rule?

SENATOR HOUGH: #24 according to me, is referral of the money bills to Finance. What is your question?

SENATOR NELSON: I guess what I am asking you specifically is that it says all bills appropriating money which are referred to the committee on Finance may have only one hearing and I just wanted to know if anyone made any comment to the fact that there would be only one hearing? No one suggested there should be two.

SENATOR HOUGH: A bill that has been referred to a policy committee that has an appropriation has a public hearing in the policy committee. There are bills that are assigned to the Finance Commit-



tee without going to the policy committee. Those bills also must have a public hearing; that is different of rules that we historically had. I'm not sure that I understand your question. Does your question center around the bills that can be acted upon without a public hearing?

SENATOR NELSON: In other words, what I am trying to ask you I guess, it that if a bill goes through a policy committee, does it then not have to go through the Senate Finance Committee?

SENATOR HOUGH: Let's assume it's a bill that attempts to appropriate one. Bills that don't have an appropriation don't have to go to Finance.

PRESIDENT: A bill referred by the chair to a policy committee that has an FN number or an appropriation on it, once it's passed by this body, under this rule is automatically referred to Finance. They can decide whether we need to have a hearing, but you only have one hearing in the committee and you only have one hearing in Senate Finance. Does that explain it?

SENATOR NELSON: Yes, it does.

SENATOR WHITE: Just a clarification. I think some of the House members are under another set of rules. In the House, when a bill goes to a policy committee, it then goes down to House Appropriations and they have a whole new hearing on the bill. In the Senate, Senate Finance under rule #24, it does not have to hold a second public hearing. In the House there are two hearings held and in the Senate it is only mandatory to hold one hearing. You will notice when you get into the crunch period you have sixty or seventy bills transferred down to finance. It is physically impossible to have that second hearing on an appropriations bill. Basically, by the time it gets there it will have had probably two hearings in the House and one in the Senate, so that it will have had three opportunities to have been heard. It is physically impossible for Senate Finance to go through that fourth hearing. Hopefully, the members can get briefed along the way to find out the financial impact of the bill. That's why this rule is really an important rule for the Senate to pass.

SENATE RULES COMMITTEE. Senate Rules for 1987 Ought to Pass with Amendment.

#### Amendment to Senate Rules

14 (a) Reconsideration of any bills subject to a transfer date estab-

lished by joint rules must be acted on or before the joint rule deadline, and thereafter shall be null and void.

27 The standing committees of the Senate shall be as follows: The Committee on Finance, Committee on Capital Budget, Committee on Ways and Means, Committee on Education, Committee on Internal Affairs, Committee on Interstate Cooperation, Committee on Public Institutions, Health and Human Services, the Committee on Transportation, Committee on Executive Departments, Committee on Development, Recreation and Environment, Committee on Judiciary, Committee on Banks, Committee on Insurance, Committee on Public Affairs and the Committees on Rules and Resolutions, Journal and Enrolled Bills.

17 (d) Notwithstanding the provisions of 17 (a), (b), and (c), a Senate bill, Senate joint resolution, or Senate concurrent resolution may be accepted by Legislative Services for drafting and introduced into the Senate at any time prior to the deadline established by Joint Rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a 2/3 vote on the floor.

#### Amendment Adopted.

SB 28-FN, An act relative to naming an unnamed route between state Route 175 and U.S. Route 3, in the towns of Holderness and Plymouth, Route 175-A. Ought to Pass. Senator Hounsell for the Transportation Committee.

SENATOR HOUNSELL: This bill is associated to a measure that the Senate passed last year. When we sent over our version of the ten year highway plan, we amended that plan to include the replacement of a bridge that crosses the Pemigewasset River between the towns of Plymouth and Holderness. It is a main connector between those two towns and it also further serves as the main connector of the campus of Plymouth State College. It has the distinction of being one of the largest pedestrian travelled bridges in the state, with some 1,000 students a day walking from the main campus in Plymouth to the physical education center in Holderness. A section of the bridge, about the size of a desk, fell through the deck and into the river in 1985; no one was injured, fortunately. Repairs have been made and I'm convinced that the bridge is safe. There is no immediate danger to the travelers of the bridge, motor or pedestrian. However, the bridge, once brought to the attention of the officials,

including former Commissioner of Transportation John Chandler, has been determined to be inadequate in size and design and there is a need of replacing it. This bridge is vital to the town of Holderness and that immediate cannot be stressed. It is not rated to take some of the loads that have been going over it in the past; it is fragile and even a medium sized load would disrupt it further. We placed an amendment on the bill that would allow the bridge to be replaced; it met opposition in the House; it met opposition from the governor and from the department, because the bridge was off system and wasn't eligible for federal funds. I found out that just by naming this bridge, it puts it on system. That has been expressed to me from counselor Ray Burton. He had been in contact with the department and they told him that this puts it on system and makes the bridge eligible for federal funds. I bring this all up at this time because it is going to be my intention to try and get some money for the replacement of this bridge. If we adopt this, it will cost us two hundred for a sign, that two hundred could bring us \$4 million in federal funds. I think it's a good piece of legislation and urge your support.

SENATOR CHANDLER: Senator Hounsell, It doesn't give it any particular name, what name are you going to give it?

SENATOR HOUNSELL: 175-A, it gives it a route number.

SENATOR CHANDELRL: The bridge?

SENATOR HOUNSELL: No, the road. Excuse me, I would like to clarify this point. If we name that connecting road, which is currently referred to as Holderness Road, which is maintained by the state in all areas, but it is just determined to be an off system highway road that connects Route 175 in Holderness to Route 3 in Plymouth, we simply name that Route 175-A it makes it a non-system highway bridge. It makes it eligible for federal money.

SENATOR NELSON: In trying to understand what you were saying, you were saying it would cost the state two hundred dollars to put a sign up, then you mentioned \$4 million from the federal government. Over the long haul is it going to cost the state money beyond the two hundred dollars?

SENATOR HOUNSELL: This bill will cost the state two hundred dollars if we put a sign up to call it Route 175-A. I bring this up because I'm telling you that I'm going to be coming in seeking money to replace this important bridge. Hopefully, we will be able to get this bridge built and this will help to get the support from the department of transportation, the governor and the House.

SENATOR NELSON: Will you estimate what kind of money you are looking at?

SENATOR HOUNSELL: Two hundred dollars.

SENATOR NELSON: In the distant future in reference to your question that you need money later on?

SENATOR HOUNSELL: I have been told that the bridge would probably cost as much as \$4 million.

SENATOR JOHNSON: Senator Hounsell, just to point a clarification here, you indicated that passage of this bill would bring in additional \$4 million. Isn't it true that passage of this bill would only make that bridge eligible for participation in the pot of money currently available to the department of transportation?

SENATOR HOUNSELL: I stand corrected. That's exactly what it does; it does not bring us \$4 million. I apologize to the Senate for that. I didn't mean that it makes us eligible so that perhaps we could. If it turns out that we can't, then the two hundred investment could mean \$4 million in the future.

Adopted. Ordered to Third Reading.

## ANNOUNCEMENTS

### RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until February 10, 1987 at 11:00 a.m.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage

SB 11-A, Relative to replacing the Hampton Beach seawall and making an appropriation therefor.

SB 12, Relative to the operation of motors on Clarksville Pond in the town of Clarksville.

SB 19, Relative to the liability of a trapper for an unlicensed dog and the trapper's report of catch.

SB 27-FN, Relative to the commemorative rifle or shotgun lottery.

SB 29, Relative to the appointment of a caretaker for the "Old Man of the Mountain."

SB 31-FN-A, Relative to the department of health and human services, and making an appropriation therefor.

SCR 1, Resolution commemorating the Melvin Village Community Church in Tuftonboro.

SB 8, Granting counties the authority to acquire and operate public utilities.

SB 28-FN, Relative to naming an unnamed route between state Route 175 and U.S. Route 3, in the towns of Holderness and Plymouth, Route 175-A.

Adopted.

### RECONSIDERATION

Senator Hough moved reconsideration on SB 31-FN-A, relative to the department of health and human services, and making an appropriation therefor.

Motion lost.

Senator Torr moved reconsideration on SB 11-A, relative to replacing the Hampton Beach seawall and making an appropriation therefor.

Motion lost.

### ANNOUNCEMENT

SENATOR DUPONT: As we had a considerable amount of debate on the settlement issue earlier, I've tried to distribute copies of the bill that we will be working on so that everyone will have an opportunity to put their thoughts and interests into the bill. If you haven't received one, there will be additional copies out on the desk out in the Sgt. at Arms office. I urge you to take a look at this now so that when it does come time to come through this body we are all familiar with it. Thank you.

Senator Hough moved that the Senate adjourn until Tuesday, February 10, 1987 at 11:00 am

Adopted

Adjourned

## *Tuesday, February 10, 1987*

Senate met at 11:00 am.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray: We thank you Lord, for the opportunity to bear witness to the work of the Father of our Country, George Washington and the Great Emancipator Abraham Lincoln! May their integrity inspire us in all our work especially the long haul of the budget - with sincerity and truth!

Amen.

Senator Roberge led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

### INTRODUCTION OF SENATE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 32-FN through 36-FN-A shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted

### First and Second Reading and Referrals

SB 32-FN, Abolishing the insanity defense, providing for a verdict of guilty but mentally ill, and relative to committal orders. (Roberge of Dist. 9 - To Judiciary).

SB 33, Relative to the language, phrasing, and explanation of ballot questions. (Roberge of Dist. 9; Stiles of Hillsborough Dist. 34 - To Executive Departments).



SB 34, Relative to the advisory budget control committee and the fiscal committee. (Torr of Dist. 21; Kelley of Hillsborough Dist. 13; Gross of Merrimack Dist. 16 - To Executive Departments.)

SB 35, Relative to the filing of capital improvement plans by municipalities and the effect of failure to file. (Bond of Dist. 1 - To Public Affairs)

SB 36-FN-A, Establishing a state liquor store in the town of Belmont and making an appropriation therefor. (Chandler of Dist. 7 - To Ways and Means)

### COMMITTEE REPORTS

SB 6-FN-A, An act to provide 3 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor. Ought to Pass. Senator Disnard for the Executive Departments Committee.

SENATOR DISNARD: I wish to report that the Executive Departments Committee voted unanimously to approve SB 6. I wish also to have you realize that 5 of the 6 committee members were in attendance and that should indicate something to you. This bill essentially requests three additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor. I wish to call your attention to an article in a local paper in our area; Air Resources Division indicated it could not analyze the chemical contents of emission from two plants in the Claremont area. They were unable to determine what was coming out of these stacks, or stacks all over the state. What is hard to believe is that the state is approving wood chip burning plants, trash to energy plants and their industries to construct plants, that they are unable to monitor what is cast in the air. Just think of what this means to you.

You all have at your seats a letter dated January 7, 1986, which you might note, it took the air resources division three months to answer, which indicates some problems. In this letter, two constituents from my particular area, who are concerned about a waste to energy plant being built. Not that they are against the waste to energy plant, but in this plant and plants that you may have constructed or under construction or are already constructed in your area, there is no means to monitor. Batteries go in there, pesticides and insecticides and other items are put in there. The state does not have adequate devices or staff to monitor what comes out of those smoke

stacks. Does that scare you? It scares me, especially, when the air resources division indicated they now have four people in their staff, one is assigned to Berlin, one is assigned to Rockingham County and two others are instrument technicians, that do repair work and travel on alternate days to Manchester and Nashua. In response to a question, a person from the resources division indicated that three additional people would give them more response, in Manchester, Keene, Sullivan County and Nashua area. Not only for air quality monitoring purposes, but it would allow them to follow thru on complaints, concerns and problems.

I was astounded to hear other members of the committee indicate at the hearing they, too, had waste to energy plants. They, too, were having wood chip plants on line and planned for their area. They were amazed to find out that the state was admitting they couldn't tell people in the state exactly what was coming out of those smoke stacks. I think this should tell us something. I hope you will support this bill and follow the five to nothing unanimous vote of the committee and vote in favor of the committee report.

SENATOR WHITE: Senator Disnard, is the equipment covered?

SENATOR DISNARD: Sorry, I don't have that part with me because I gave it to some reporters. The equipment is a one shot deal to buy monitoring type devices.

SENATOR WHITE: Basically, it is just monitoring equipment, no cars?

SENATOR DISNARD: No, it was very specific in questions asked at that hearing what did this consist of? It is not cars or anything; it is monitoring devices.

SENATOR JOHNSON: Senator Disnard, I am certainly in accordance with the need for air quality inspectors. My question to you is, isn't it really premature for the Senate to be voting on this bill today prior to the introduction to the Governor's operating budget on Thursday, where matters such as this are most appropriately introduced?

SENATOR DISNARD: It could be moved if the Governor's budget so included this, but if it isn't, it is protection for the people in your area and my area that there be interest known.

SENATOR JOHNSON: Do you know, Senator Disnard, that there is such a request for this provision is not going to part of the Governor's operating budget?

SENATOR DISNARD: I cannot answer that.

SENATOR JOHNSON: So, indeed, this is at least possible that it is premature then?

SENATOR DISNARD: Your estimate no, it's protection for the people of the state.

Adopted. Referred to Finance under Rule 24.

CACR 10, An act relating to rulemaking authority of the Supreme Court. Inexpedient to legislate. Senator Preston for the Judiciary Committee.

SENATOR PRESTON: This is a constitutional amendment concurrent resolution. It would really, in my mind, establish a confrontation. In all due respect to what the sponsor's attempting to do here, I think it really intrudes on the rights of the separation of powers as we know them. I guess I would have to say what's the problem. As far as I can see, it's an establishment of the procedural rights in the court and it would just be going down a gauntlet in my mind to be very divisive between the judicial and the legislative branch. I think it is totally unnecessary and I respectfully request that you support the committee for inexpedient to legislate.

Adopted

Senator Hounsell wished to be recorded in opposition to the motion.

SB 16, An act allowing the award of attorney fees, court costs, and reimbursement of collection agency fees in actions to collect debts. Ought to Pass with Amendment. Senator Podles for the Judiciary Committee.

SENATOR PODLES: Senators, SB 16 enables a court at its discretion to award creditor attorney fees, court costs and the fees paid to collection agencies in efforts to collect the debt, in the event that the creditors successfully sues for that purpose. Testimony offered to the committee reported the need for this legislation, insofar as the small businesses are concerned. Passage of this legislation will encourage small businesses to pursue bad debts. Often times, the small business owner because expenses associated with the collection were too costly, they just took the loss. SB 16 will be a valuable tool; it is long overdue. The amendment on page 5 of your calendar makes it reciprocal, equally to the creditor and also to the debtor. It also changes the effective date to six months after passage. The committee recommends ought to pass with amendment.

SENATOR WHITE: I just wanted to correct that six months to sixty days. I also would like to indicate that, for the record, no one appeared in opposition to the bill when it was heard and everyone that did appear was in favor of the bill passing.

#### Amendment to SB 16

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Actions to Collect Debts; Reciprocal Attorney's Fees. Amend RSA 507 by inserting after section 8-f the following new section:

507:8-g Actions to Collect Debts; Reciprocal Attorney's Fees. In any successful action against a debtor to collect a debt, the court may, at its discretion, award the creditor or other person bringing suit his reasonable attorney's fees and court costs and fees paid to collection agencies in efforts to collect the debt. If the debtor or other person against whom suit is brought to collect a debt shall establish a defense, set-off or counterclaim, the court may, at its discretion, award the debtor or such other person his reasonable attorney's fees and court costs.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

SB 18, Relative to the integrated bar. Inexpedient to Legislate. Senator Podles for the Judiciary Committee.

SENATOR PODLES: SB 18 permits membership in the New Hampshire Bar Association to be optional. This is at least the third consecutive session that a bill relative to an integrated bar has been presented, one in 1985, 1986 and now SB 18 in 1987. The testimony in support of this bill was that mandatory membership in the bar association is essentially the same thing as a compulsory unionism and that a large percentage of lawyers would join anyway, where a voluntary association all wanted to protect the right of those who may not wish to join for whatever reason. Those who opposed the bill stated that integrated law has a direct benefit to New Hampshire citizens in various ways. The bar is able to provide programs, such as pro-bono, referral services, reduce fee services, lawyer referral services, ongoing education to its members. It provides direct services to teachers of law courses and law related projects in the

public school system. Considering the benefit to the public of the services made possible by the present structure of the law, the fact that the Supreme Court has jurisdiction of the matter and can hear a petition at any time concerning the unified law and the fact that no lawyer has formally petitioned for de-unification, the committee recommends inexpedient to legislate.

Senator Chandler moved to substitute Ought to Pass for committee report.

SENATE CHANDLER: This bill, as Senator Podles indicated, has been before the legislature several times in the past. I think that the Senate passed it the last time and the House killed it. 95% of the testimony at the hearing concerned what a good organization the bar association was. Nobody disputes that at all. I agree with the opponents that spoke at the hearing, that the bar association is a good organization and it does do a lot of good things. It is beneficial to the lawyers and to the public. However, that was not the point of the bill at all. The bill was not attacking the bar association; the bill was not seeking to abolish the bar association or anything of the kind. I think most of the testimony was not germane to the subject of the bill. The subject of the bill is compulsory joining of an organization. Whether you call the organization a bar association, professional association, legal union or whatever you call it, it doesn't necessarily mean too much. Sometimes names can be deceiving. The testimony was that they needed to have a compulsory joining of the bar association, so that they wouldn't have to go out and bother to try to collect the dues. The dues would have to be paid by law. That's why they said that they could spend time trying to collect dues from their members and that's time they would rather spend doing something else. I would like to point out the fact that everybody knows that Doctors of this state do not have to join the medical society in order to practice medicine. This is the only profession in the state that has this compulsory membership. I don't feel that we should tell the lawyer to join. He might have some particular reason or some particular belief, and they might not want to join and that should be his privilege. If he studied the law, went to law school, takes the New Hampshire bar exam, which qualifies him to be a lawyer and still he can't practice law until he joins the bar association, it's a compulsion part of it as a matter of principle. If we have any principle, we should feel that lawyers are not second class citizens. I admire lawyers; my father went to Harvard law school; my mother wanted me to be a lawyer, but I went to Europe instead. I admire lawyers; a great many lawyers are friend's of mine and I have feel-



ings with them in one way or another. I have nothing against the professional law and I don't think they should be treated as second class citizens that are forced to join something against their will. There were two or three lawyers that appeared at the hearing and I admire their courage. They got up and supported the bill; they did so at the risk of probably being criticized by the bar association. The bar association probably wouldn't feel too friendly toward them for taking the stand. If I was a lawyer, I would join the bar association and participate in it. That would be because it would be my own will to join it, not because I was forced to join it. I don't think that we should force lawyers to join something. There are a couple of Senators here that have always appeared against my bills and I don't know why. They have never given very good reasons for opposing it except saying that it's no good, kill it. One of them appeared at the hearing and the other one wasn't able to be in Concord that day, but I expect they will get up and oppose my motion here on the floor. Please listen intently to what they say and stick to the point of compulsory joining and not try to say how good the bar association is, because I will say myself, the bar association is a good organization, I have nothing against it as an organization except this compulsory angle to join. I hope that the Senate will again pass this and we will have to go and fight it out in the House again before the House Judiciary Committee.

SENATOR DUPONT: Senator Podles, I am just curious as to whether this is peculiar to New Hampshire that the membership is forced and whether or not it applies to membership in the Keene bar or the bar association of Vermont or Massachusetts. Is it something that takes place in every state?

SENATOR PODLES: No, this does not take place in every state. The Supreme Court has jurisdiction under the constitution of this matter and this bill would be unconstitutional if it had been passed.

SENATOR DUPONT: Why would it be unconstitutional Senator, I don't understand that?

SENATOR PODLES: Because the Supreme Court has jurisdiction over this, in this matter. They can hear a petition at any time regarding this. In fact, the two lawyers that have testified for this bill can challenge this in court and they have not had the courage to challenge this in court.

SENATOR BLAISDELL: I rise in opposition to Senator Chandler's motion in the favor of the committee report. I did not say, "kill it," I



said, "ditto," when I was before your committee. This has come, I think, four straight times, as I remember it, and speaking for the three lawyers that spoke for the bill, up until this morning, they have an approach that they can take. Any individual who would like to return to the private bar may petition the Supreme Court to so order. I believe to date that no one has done so. In fact I believe there is little interest among the lawyers to do this. Members of the association voted in integrated bar and so petitioned the New Hampshire Supreme Court back in 1969. The response of that petition, the court established an integrated bar under a three year trial basis. In 1972 the court founded the integrated bar lived up to its promise of improving the quality of law and providing better services to the public and ordered the bar integrated on a permanent basis. Senator Chandler said that there are no other professional groups that it is compulsory to belong, I have to disagree with that and I will just name one, there is a board called the Collegiate Basketball Officials Association that I have been a member of for thirty years. I called our professional board because we have to take exams every year and testing, so I would disagree that in the college level you can't referee a college basketball game unless you belong to a particular board. That's the way it should be because you get the training and the knowledge to do that. So, I disagree with Senator Chandler's remarks. Yes, it has been Senator Hough and I that have constantly voted against this and spoke against it and I will continue to speak against it, because I do not think it's in the best interest of the people of the State of New Hampshire. They serve a public image and I think that is what they should do.

SENATOR JOHNSON: I rise in support of the committee report inexpedient to legislate. I am convinced that it's in the public interest to maintain the integrated bar. Please note that since this is a legal issue, I have my notes on legal sized paper today. The integrated bar is really part of the regulatory process, which Senator Podles has pointed out under the jurisdiction of the Supreme Court. In answer to Senator Dupont's question, partial answer anyway, 33 states have adopted integrated bar. This includes practically all of the small states. If we did away with the integrated bar we would have to establish a state run regulatory body with the additional legal expense that goes with that. I, too, hope that we can lay this issue to rest because this system the integrated bar, is working well. There is virtually no support for this bill on the public, and it has been pointed out that the lawyers who are so well qualified have yet to follow the course of action that is available to them. I think it is important for us to know that the bar association provides a number

of important public services and Senator Podles mentioned some of them. They provide these public services, not because they all wear white hats, but because it is in a lawyers interest to maintain the best possible public image. Senator Podles mentioned the pro-bono program. I might add to that and say that in New Hampshire, the lawyers participate in a rate of 45% of the program and that is compared to a national average of 30 - 35%. A couple of additional public protection programs, the bar association maintains a quiet indemnity fund to reimburse clients whose funds may have been misappropriated by their lawyer's. In addition, there is also a committed president of the association who will provide expert testimony to clients who have legitimate malpractice claims against their lawyers, but are unable to obtain such testimony through other means. The result is that no client will be unable to pursue a valid negligence claim against an attorney because of a "conspiracy of silence". There is another important aspect of the integrated bar, that is the interest on lawyer's trust accounts. Prior to the integrated bar, lawyer trust accounts were required by law to be none-interest-bearing accounts, meaning that the banks got to use that money. Now the interest on these accounts goes into a fund that makes grants for public purposes. In 1986 the interest trust accounts earned approximately \$750,000 and that money was distributed.

SENATOR PODLES: Senator Chandler, you said in your talk that we had two attorneys that came in and testified in support of this bill. Would you agree with me that those two attorneys can challenge this in court, and they never have had the courage to do it?

SENATOR CHANDLER: Senator Podles, I agree with you that it has not been challenged. I would like to add that the two attorneys that voted in favor of the bill said, "they have never challenged it because they felt it would be futile." It would be like that challenge of the fox as he is stealing the chickens, ask him a question.

SENATOR CHANDLER: Senator Johnson, you enumerated a lot of the good things that the bar association does, from your list on the lawyers paper. I would like to question, could not all these things still be done by the bar association, even if some members did not want to join?

SENATOR JOHNSON: Senator Chandler, that is a possibility, but the fact of the matter is, these are services that are being provided today through the offices of the bar association.

SENATOR CHANDLER: Well, couldn't these things that they're doing, couldn't they still be done, in spite of the fact that maybe there was a few lawyers that did not want to join?

SENATOR JOHNSON: Yes, it is possible.

SENATOR HOUNSELL: Senator Chandler so aptly warned us that the discussion may deviate from the point that he was trying to make and the point that I concur with and the reason I support his motion of ought to pass. What this bill does do is it allows people the freedom to join an association in the bar if they choose. I would think that in the land of the free, especially in a state that advertises to Live Free or Die, that that is something we as a body would be eager to endorse. What this bill does not do, it does not put an end to the integrated bar. In fact, I would contend if the integrated bar is as strong and wonderful as it is, then they should not be fearful of this bill. I think that in the past, lawyers have spoken with courage about their support of this bill. In fact two, as Senator Chandler has alluded to, came and spoke in favor of this bill. You are giving people a choice here; you are giving a choice to associate with an organization if they choose to associate and to choose not to, if they choose not. We, as a state and as a Senate, our primary thing is to protect those individual freedoms. I don't speak ill against the integrated bar, I feel like Senator Chandler did. If I was a lawyer, I would probably be eager to join. But I hope all will maintain that's important to have that choice. That's the issue. The issue isn't whether or not the bar is doing it's job, the issue is whether or not people should have a right to choose what association they should belong to.

SENATOR WHITE: I would like to change some of the facts that Senator Johnson gave. Basically, there are 31 states that now have a unified bar, but also the District of Columbia and Puerto Rico are included in it, which would bring it up to the 33, just for clarification on that one issue. Another fact that has been brought out is in regards to the two attorneys that spoke in support of the bill. Frank Silvia's problem with the lawyers taking it to the Supreme Court was the fact that he has asked for a secret ballot to vote on this particular issue. They have denied him a secret ballot because he felt that more people would be on his side, in seeking a change in the unified bar and they will not vote on it. His other objection, as has been pointed out, was first of all the cost would be somewhere between \$2,000 and \$5,000 and when they got to court they would obviously be facing the best lawyers and at the end of it, might have a difficulty in going before some of the judges who would be ruling

on these particular decisions. That was the problem that Frank Silvia had with the lawyers themselves going to court on this issue.

SENATOR BLAISDELL: Senator Podles, we heard from Senator Chandler and other members of the Senate that the hearing was dominated by a couple of the Senators and also a few lawyers. Was there any clamor from the general public in that room that day to change this, did many people come and speak from the general public of the people you and I represent?

SENATOR PODLES: I don't remember that there was anyone from the general public. There was one Senator and one State Representative. We did have excellent testimony on this bill.

SENATOR DISNARD: Senator Hounsell, as you referred to this great free state, would you also agree that as a free state, the less laws we have the better; and there are opportunities available to the members of the bar if they disagree with their association?

SENATOR HOUNSELL: I sometimes find that it is important and essential that we as a body impose laws to protect freedoms. I think this is an example of the basic freedom of the right to associate at risk here. I just want to reemphasize that, but that's the issue. Whether or not a person belongs to the bar is secondary. What is important and what we are voting on is the right for people to free association.

SENATOR WHITE: There was someone from the general public there that did testify. That was one of the teachers who indicated what a good program they had at the schools, was their liberty program. We did get several letters from the various children that said that they did like the program that the bar association put on. There were people supporting the article.

Roll call requested by Senator Hounsell.  
Seconded by Senator Blaisdell

Those in favor: Senators Hounsell, Heath, Freese, Dupont, Chandler, Delahunty and Preston.

Those opposed: Senators Bond, Hough, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, Charbonneau, McLane, Podles, Johnson, Stephen, St. Jean, Torr and Krasker.

7 Yeas

16 Nays

Motion lost.

## Committee Report Adopted

SB 22, An act prohibiting surgery on minors without parental consent. Inexpedient to Legislate. Senator Preston for the Judiciary Committee.

SENATOR PRESTON: I hope that we all remember that this is the day to do Senator Chandler in, because I tried in a very small way to help in the last bill. This particular piece of legislation, I think, causes more problem's than it pretends to resolve. I would just like to explain in advance, that some of the folks who opposed this bill, find on their side they are in strange company because perhaps next week in another issue will be on the opposite sides. But this bill would prohibit any physician from performing surgery on an unemancipated minor without prior parental consent. It was felt by those there, that this is a back door approach to addressing the issue of whether minors should be able to obtain abortions. In my mind, this opens up a whole new door of liability for the medical profession and those school administration people and so forth. There will be another bill to address the Senator's concerns, but I think the potential problems here and it might apply to emergency procedures and so forth. This bill could cause a lot of problems and I think we should defeat it at this time.

Adopted.

## ANNOUNCEMENT

SENATOR PRESTON: I want to make a statement of clarification on an issue that has been before us in the newspapers for some time. I just want to review the map that is being passed out with you, so that you can understand perhaps the concerns of some of us of the impact of a change from 10 miles to 1 mile and I just ask that you look at this map and be understanding of what we are talking about. What has been passed out to you is a copy of a map that was sent to me, I wrote a letter requesting the President of the New Hampshire Yankee Nuclear Plant to send me a map indicating the 1 mile evacuation zone. That top map is an exact replica of a red pen circle that was given back to me by a representative of the New Hampshire Yankee, so this is their map. If you are looking at the map with the base of Newburyport in front of you, you will see that I have highlighted the number 1, that's the 1 mile circle. If you look at the map on the back, I have just filled in the blanks and you'll see a big black dot there. Look to your far right at a right angle, you will see that



the beaches on the top right is Hampton Beach and the lower right is Seabrook Beach. Off the left, going thru the middle of the marsh is the arc of the 1 mile circle that doesn't touch one dwelling, no one business or no one beach. If you look to the base of the map, just below that, there is a little road in there called Crossway Street that contains the only elementary school that's outside of that 1 mile radius. If you look to your left, you will see 95 and inside that is Route 1 that proceeds from the Massachusetts border to the north. The 1 mile circle does not hit the front entrance gate to the Seabrook Nuclear Plant. Now you go past the circle, look to the top and you will see the town of Hampton. You will see just below where it says 1-A. That is the road that accesses off the beach, the expressway and 51 heading to Manchester. So in essence, what I am trying to say to you is that reduction from 10 miles to 1 mile, is that one black dot. I don't know the number of houses, but there are no schools, no major highways, it covers the majority of marsh land within one community and infringes into marsh land in another and there are ten dwellings included in their plans. I just submit that to you for your consideration. We are doing a lot of reading about it, but I just wanted you to be sure exactly why we and the seacoast are so upset as to the impact one mile would add on the evacuation on our sea ruling. I thank you for the opportunity to explain that this morning.

Recess

Out of Recess

#### HOUSE MESSAGE

The House of Representatives is ready to meet with the Honorable Senate in Joint Convention at 1:30 pm for the purpose of hearing the Governor's Capital Budget message.

Adopted

Recess

Out of Recess

#### RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until 10:00 am, Thursday, February 12, 1987.



Adopted

### LATE SESSION

#### Third Reading and Final Passage

SB 16, An act allowing the award of attorney fees, court costs, and reimbursement of collection agency fees in actions to collect debts.

Senator Charbonneau moved that the Senate adjourn until Thursday, February 12, 1987 at 10:00 am.

Adopted

Adjourned

### *Thursday, February 12, 1987*

Senate met at 10:00 am

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let us Pray: Lord, help us to remember the principles of Life, Liberty and the Pursuit of Happiness! May these always be in our hearts and minds as we work to protect the monetary, property values and duties of the state as well as the dignity and values of each and every citizen thereof. Have a "Happy Valentine's day!"

Amen.

Senator Heath led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

### INTRODUCTION OF SENATE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered SB 37 through SB 43-FN shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees

Adopted

## First and Second Reading and Referrals

SB 37, To clarify the relationship between the state civil defense agency and local governments regarding development of nuclear emergency response plans. (Krasker of Dist. 24; Preston of Dist. 23; Cushing of Rockingham Dist. 14; Parr of Rockingham Dist. 17; Vaughn of Rockingham Dist. 27; Walker of Rockingham Dist. 17; Gage of Rockingham Dist. 13 - To Public Affairs)

SB 38, Relative to Rust Pond in the town of Wolfeboro. (Heath of Dist. 3 - To Development, Recreation and Environment)

SB 39, Removing the reference to a candidate's domicile on state general election and primary election ballots. (Heath of Dist. 3 - To Executive Departments)

SB 40-FN-A, Relative to catastrophic aid, and making an appropriation therefor. (Krasker of Dist. 24; Disnard of Dist. 8; Robinson of Hillsborough Dist. 12; Johnson of Rockingham Dist. 1; Sanderson of Rockingham Dist. 25 - To Education)

SB 41, Relative to unclassified state employees (Hounsell of Dist. 2 - To Executive Departments)

SB 42, Relative to employees of the sweepstakes commission. (Hough of Dist. 5 - To Executive Departments)

SB 43-FN, Relative to regional banking. (Freese of Dist. 4; Krasker of Dist. 24; Lindblade of Sullivan Dist. 5; Packard of Hillsborough Dist. 15; Pantzer of Merrimack Dist. 11; Christy of Grafton Dist. 11; King of Grafton Dist. 12 - To Banks)

## HOUSE MESSAGE

Mr. President, The House of Representatives passed bills with the following titles and has asked concurrence with the Honorable Senate.

## INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 136-FN through HB 24 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referrals

HB 136-FN, Relative to sunset review of public utilities commission-gas-pipeline carriers. (Internal Affairs)

HB 155-FN, Relative to sunset review of the board of education-food and nutrition. (Education)

HB 105-FN, Relative to sunset review of the secretary of state-legislative services. (Executive Departments)

HB 60-FN, Relative to indemnification of fish and game department volunteers. (Development, Recreation and Environment)

HB 73-FN, Relative to falconry. (Development, Recreation and Environment)

HB 95, Relative to hunting accidents. (Development, Recreation and Environment)

HB 23, Relative to halfway houses. (Public Institutions, Health and Human Services)

HB 128-FN, Relative to sunset review of civil defense. (Executive Departments)

HB 129-FN, Relative to sunset review of disaster office. (Executive Departments)

HB 130-FN, Relative to sunset review of the fire standards and training commission (Executive Departments)

HB 139-FN, Relative to sunset review of the police standards and training council. (Executive Departments)

HB 140-FN, Relative to sunset review of the police standards and training council-corrections. (Executive Departments)

HB 28, Relative to retention schedules for depository libraries. (Public Institutions, Health and Human Services)

HB 89, Relative to library regions. (Public Institutions, Health and Human Services)

HB 148, Relative to sunset review of Glenduff home for the elderly. (Public Institutions, Health and Human Services)

HB 149-FN, Relative to sunset review of Laconia state school and training center. (Public Institutions, Health and Human Services)

HB 137-FN, Relative to sunset review of the department of safety-administration and support. (Executive Departments)

HB 87, Revising the definition of "person" in the statutory construction chapter. (Executive Departments)

HB 55, Relative to the insanity defense and committal orders. (Judiciary)

HB 169-FN, Relative to sunset review of Maine-New Hampshire interstate bridge authority. (Transportation)

HB 24, To extend the deadline for the joint committee on recodification of the water laws to submit its report to the general court. (Development, Recreation and Environment)

SENATOR BLAISDELL: Mr. President, since this is getting close to Valentine's Day, Senator Preston has been nice enough to give out boutonnieres and supposedly since I'm suppose to be the big spender in the Senate, I would like to pass these out to the ladies. I would hope it would make some of you a little sweeter.

CHAIR: The Chair understands that you must report this on your financial disclosure.

SENATOR WHITE: I really should defer to Senator Nelson because she is the new President of the State Order of Women Legislatures and we had our first meeting this morning but, on behalf of the women, Senator Preston and Senator Blaisdell I want to thank you both. It is indeed a pleasure to be recognized.

## HOUSE MESSAGE

### Request Joint Convention

The House of Representatives is ready to meet with the Honorable Senate in Joint Convention for the purpose of hearing the Governor's Operating Budget message.

Recess

Out of Recess

## ANNOUNCEMENTS

Senator Dupont moved that the Senate be in recess until Thursday, February 19, 1987 at 10:00 am for the purpose of introducing legislation, referring bills to committee and scheduling hearings.

Adopted.

Recess

*Thursday, February 12, 1987*

Out of Recess

Senator Bartlett in chair.

## INTRODUCTION OF SENATE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered SB 44-FN through SB 77-FN shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees

Adopted.

## First and Second Reading and Referrals

SB 44-FN, Creating additional exemptions under the interest and dividends tax. (Chandler of Dist. 7 - To Ways and Means).

SB 45-FN-A, To phase out the interest and dividends tax. (Chandler of Dist. 7 - To Ways and Means).

SB 46-FN-A, Relative to catastrophic illnesses and making an appropriation therefor. (Heath of Dist. 3 - To Public Institutions/Health & Welfare).

SB 47-FN-A, Establishing an industrial agent for Sullivan and Cheshire counties and making an appropriation therefor. (Disnard of Dist. 8; Blaisdell of Dist 10; Normandin of Sullivan Dist. 8; Schotanus of Sullivan Dist. 1; Rodeschin of Sullivan Dist. 2 - To Public Affairs).



SB 48, Relative to the appointment of certain town officers. (Roberge of Dist. 9 - To Public Affairs).

SB 49, Relative to high school graduation. (Chandler of Dist. 7 - To Education).

SB 50, Relative to damages from construction (Blaisdell of Dist. 10 - To Judiciary).

SB 51, Relative to airboats, mufflers, and decibel levels of boats. (Blaisdell of Dist. 10; Freese of Dist. 4; Hardy of Belknap Dist. 4 - To Development, Recreation and Environment).

SB 52, Relative to modifying planning board procedures on plats. (Podles of Dist. 16 - To Public Affairs).

SB 53, Relative to appeals of decisions made by local land use boards. (Podles of Dist. 16 - To Public Affairs).

SB 54, Relative to the investments of non-profit health service corporations. (Podles of Dist. 16 - To Internal Affairs).

SB 55, Relative to parent and pupil rights. (Chandler of Dist. 7 - To Education).

SB 56, Relative to false impersonation of a law enforcement officer or investigator. (Nelson of Dist. 13; Disnard of Dist. 8; Podles of Dist. 16 - To Judiciary).

SB 57, Relative to change of name and address of a corporation. (Podles of Dist. 16 - To Executive Departments).

SB 58, Granting Cheshire Fair security guards the authority to detain persons on Cheshire Fair property. (Blaisdell of Dist. 10 - To Internal Affairs).

SB 59, Creating a New Hampshire civil law review board to review citizen's complaints against lawyers and judges. (Chandler of Dist. 7 - To Judiciary).

SB 60, Relative to referees, auditors and masters. (Chandler of Dist. 7 - To Judiciary).

SB 61, Relative to non-judicial officers appointed to hear cases. (Chandler of Dist. 7 - To Judiciary).

SB 62, Relative to counting absentee ballots in cities and towns which use voting machines. (Nelson of Dist. 13; Donovan of Hillsborough Dist. 26; McCann of Hillsborough Dist. 31; Guilbert of Hillsborough Dist. 24; Magee of Hillsborough Dist. 22 - To Public Affairs).

SB 63-FN-A, Establishing the Alana J. Cole state park and making an appropriation therefor. (Hough of Dist. 5 - To Development, Recreation and Environment).

SB 64, Legalizing the New London-Springfield water system precinct meeting of March 18, 1986. (Hough of Dist. 5; Kidder of Merri-mack Dist. 2 - To Public Affairs).

SB 65, Repealing the authorization for a committee to investigate the confinement of children. (Bartlett of Dist. 19 - To Internal Affairs).

SB 66, Relative to the office of reimbursements. (McLane of Dist. 15 - To Public Institutions/Health and Welfare).

SB 67, Increasing the local share of hazardous material transportation fund fees allocated to local emergency response programs. (Delahunty of Dist. 22 - To Executive Departments).

SB 68, Allowing 18 year olds to register to vote at high schools. (Preston of Dist. 23 - To Executive Departments).

SB 69, Enacting the uniform limited partnership act. (McLane of Dist. 15 - To Executive Departments).

SB 70, Amending article 8 of the uniform commercial code. (McLane of Dist. 15 - To Executive Departments).

SB 71, Adopting the uniform fraudulent transfer act. (McLane of Dist. 15 - To Executive Departments).

SB 72, Relative to the industrial development authority and industrial development revenue bonds. (Blaisdell of Dist. 10 ; Bartlett of Dist. 19 - To Development, Recreation and Environment).

SB 73, To revive the charter of the First Congregational Church of Salem. (Delahunty of Dist. 22 - To Public Affairs).

SB 74-A, Relative to the port authority and making an appropriation therefor. (Krasker of Dist. 24; Torr of Dist. 21; Vaughn of Rockingham Dist. 27 - To Internal Affairs).

SB 75-A, Authorizing the study of the feasibility of reconstructing U.S. Route 1 from the Massachusetts line to Portsmouth, New Hampshire, to increase capacity and safety, and making an appropriation therefor. (Krasker of Dist. 24; Preston of Dist. 23; Blanchard of Rockingham Dist. 26 - To Capital Budget).

SB 76, Relative to records management and archives. (Preston of Dist. 23 - To Executive Departments).

SB 77-FN, Enabling certain municipal bodies to participate in the joint promotional advertising program. (Preston of Dist. 23 - To Public Affairs).

### ENROLLED BILLS REPORT

SB 11, Relative to replacing the Hampton Beach seawall and making an appropriation therefor.

Recess

Out of Recess

Senator Stephen moved we go into the late session.

Adopted.

### LATE SESSION

Senator Hounsell moved that we adjourn.

Adopted.

*Thursday, February 19, 1987*

Senate met at 10:00 a.m.

Senator Dupont in the chair

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let us Pray: Lord, help us so to move with "Malice toward none and Charity for All" as we try to solve the many problems of our day! Have a restful and fruitful vacation next week!

Amen.

Senator Disnard led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

## INTRODUCTION OF SENATE BILLS

Senator Hounsell offered the following Resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills numbered #1, 2, 78 through 239, SJR1, SR4, CACR 20 and CACR 21 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

## First and Second Reading and Referrals

SB 1-A, Establishing the New Hampshire land conservation investment program and making an appropriation therefor.(Blaisdell of Dist. 10; Bartlett of Dist. 19; Dupont of Dist. 6; Torr of Dist. 21; Preston of Dist. 23; Burns of Coos Dist. 5; Dickinson of Carroll Dist. 2; Palumbo of Rockingham Dist. 10; Matson of Cheshire Dist. 7; Greene of Rockingham Dist. 18 - To Development, Recreation and Environment)

SB 2 Mandating health insurance for alcoholism and drug dependency treatment. (McLane of Dist. 15; Podles of Dist. 16; Bartlett of Dist. 19; Preston of Dist. 23; Hough of Dist. 5; Harrington of Hillsborough Dist. 7; Champagne of Hillsborough Dist. 48; Palumbo of Rockingham Dist. 10; Packard of Hillsborough Dist. 15; Blanchette of Rockingham Dist. 12 - To Public Institutions, Health and Human Services)

SB 78-FN-A, Relative to benefits for a spouse upon the death of a retired group II member. (Dupont of Dist. 6; Fields of Hillsborough Dist. 13 - To Insurance)

SB 79-FN-A, Providing for 40 new troopers for the division of state police and making an appropriation therefor. (Preston of Dist. 23; Blaisdell of Dist. 10; Hough of Dist. 5; Hollingworth of Rockingham Dist. 17 - To Finance)

SB 80, Amending the statutory speed limit on certain highways of the state. (St. Jean of Dist. 20 - To Transportation)

SB 81-FN-A, To increase the shelter allowance for aid to families with dependent children, and making an appropriation therefor. (Public Institutions, Health and Human Services)

SB 82-FN-A, Relative to funding for the New Hampshire Veterans Resource/Counseling Center, and making an appropriation therefor. (Heath of Dist. 3 - To Public Affairs)

SB 83, Relative to distributing political campaign literature at polling places on election day. (Heath of Dist. 3 - To Executive Departments)

SB 84, Restricting the use of double trailers in cities and towns of the state. (St. Jean of Dist. 20 - To Transportation)

SB 85-FN, Establishing a special environmental court within the Manchester district court. (Podles of Dist. 16; St. Jean of Dist. 20 - To Judiciary)

SB 86-FN-A, Relative to a memorial for Governor Sherman Adams. (Freese of Dist. 4; Bond of Dist. 1; Heath of Dist. 3; White of Dist. 11; Hounsell of Dist. 2; Chambers of Grafton Dist. 12; Kidder of Merrimack Dist. 2; Ward of Grafton Dist. 1; Rounds of Grafton Dist. 10; Blacketor of Cheshire Dist. 12 - To Development, Recreation and Environment)

SB 87, Relative to the confidentiality requirement for explosive licenses. (Dupont of Dist. 6 - To Transportation)

SB 88, Relative to periodic payment of certain future damages. (Freese of Dist. 4; Blaisdell of Dist. 10; Hawkins of Belknap Dist. 5 - To Insurance)

SB 89, Relative to electric utility rate increases. (St. Jean of Dist. 20 - To Public Affairs)

SB 90, Relative to amusement parks. (St. Jean of Dist. 20 - To Development, Recreation and Environment)

SB 91, Establishing a committee to evaluate the foundation aid formula. (Dupont of Dist. 6; Heath of Dist. 3 - To Education)

SB 92, Relative to special elections for city and ward officers (Dupont of Dist. 6 - To Executive Departments)

SB 93, Relative to reorganization. (Dupont of Dist. 6 - To Executive Departments)

SB 94, Providing the legislative budget assistant with access to certain records. (Dupont of Dist. 6 - To Internal Affairs)

SB 95-FN-A, To reimburse the mediator of the Eidelweiss-Madison negotiations, and making an appropriation therefor. (Heath of Dist. 3; Holmes of Carroll Dist. 3 - To Public Affairs)

SB 96-FN, Relative to local control and regulation of granite quarry operations. (Johnson of Dist. 17 - To Development, Recreation and Environment)

SB 97-FN, Establishing a study committee relative to the feasibility of one-way tolls on part of the turnpike system. (Bartlett of Dist. 19 - To Transportation)

SB 98-FN, Relative to the certificate of need program. (Bartlett of Dist. 19 - To Public Institutions, Health and Human Services)

SB 99-FN, Establishing a study committee to determine whether the department of transportation has fully implemented the legislative directives of the general court. (Bartlett of Dist. 19 - To Transportation)

SB 100, Relative to exemption from regulation of the design, construction and alteration of certain small structures. (Bartlett of Dist. 19 - To Executive Departments)

SB 101. Relative to political campaign contributions by state employees. (St. Jean of Dist. 20 - To Internal Affairs)

SB 102-FN, Establishing a study committee to assess the need for enterprise zones. (Bond of Dist. 1 - To Public Affairs)

SB 103, Relative to motor vehicle license examinations. (Dupont of Dist. 6 - To Transportation)

SB 104-FN-A, Relative to the rate of the business profits tax. (Dupont of Dist. 6; Heath of Dist. 3 - To Ways and Means)

SB 105-FN, Relative to the central interagency motorpool study committee. (White of Dist. 11; McCain of Rockingham Dist. 11 - To Transportation)

SB 106, Relative to the responsibilities of the commissioner of safety. (Dupont of Dist. 6 - To Executive Departments)

SB 107-FN-A, Relative to the New Hampshire state airport system plan and making an appropriation therefor. (Dupont of Dist. 6 - To Transportation)



SB 108, Relative to immunity in criminal cases. (Dupont of Dist. 6 - To Judiciary)

SB 109, Expanding the prohibition on possession of dangerous weapons by felons. (Dupont of Dist. 6 - To Judiciary)

SB 110, Requiring the publication of certain opinions of the attorney general. (Hounsell of Dist. 2 - To Internal Affairs)

SB 111, Relative to electing zoning board of adjustment members. (Hounsell of Dist. 2 - To Public Affairs)

SB 112-A, Making an appropriation to the department of safety for certain capital improvements. (White of Dist. 11; K. Wheeler of Hillsborough Dist. 10; E. Wheeler of Hillsborough Dist. 10 - To Capital Budget)

SB 113, Relative to legal services. (Nelson of Dist. 13 - To Judiciary)

SB 114, Relative to recording of sentences of drug offenders. (Hounsell of Dist. 2; Dupont of Dist. 6 - To Judiciary)

SB 115, Relative to marriage. (St. Jean of Dist. 20; Stephen of Dist. 18 - To Judiciary)

SB 116, Relative to fees for provision of electronic fund transfer services to financial institutions. (Stephen of Dist. 18 - To Banks)

SB 117, Relative to the payment of employee wages. (Podles of Dist. 16; Blaisdell of Dist. 10; St. Jean of Dist. 20; Hounsell of Dist. 2 - To Public Affairs)

SB 118, Relative to rate setting for special education and the division for children and youth services. (Roberge of Dist. 9 - To Education)

SB 119, Requiring identification badges for the press while in the state house or legislative office building. (Charbonneau of Dist. 14; White of Dist. 11; Johnson of Dist. 17 - To Internal Affairs)

SB 120, Granting immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities. (Roberge of Dist. 9; McLane of Dist. 15 - To Judiciary)

SB 121-FN-A, Relative to legal costs concerning the Maine state income tax. (Dupont of Dist. 6; Torr of Dist. 21; Krasker of Dist. 24; Laurion of Strafford Dist. 10; Pelley of Strafford Dist. 10 - To Judiciary)

SB 122, Relative to contributory fault and comparative fault. (Charbonneau of Dist. 14; White of Dist. 11 - To Insurance)

SB 123, Amending ward lines for the city of Portsmouth. (Krasker of Dist. 24; Weddle of Rockingham Dist. 24; Blanchard of Rockingham Dist. 26; Sanderson of Rockingham Dist. 25 - To Executive Departments)

SB 124-FN, Prohibiting abortions performed on certain minors without parental consent. (Roberge of Dist. 9; Chandler of Dist. 7 - To Judiciary)

SB 125-FN, To appropriate funds for ocean disposal of Rye Harbor dredge material. (Krasker of Dist. 24; Greene of Rockingham Dist. 18; Vaughn of Rockingham Dist. 27 - To Finance)

SB 126, Prohibiting lobbyists from occupying a certain area of the New Hampshire state house. (Charbonneau of Dist. 14; White of Dist. 11; Lewis of Merrimack Dist. 5; Holmes of Carroll Dist. 3; Vaughn of Rockingham Dist. 27; Dickinson of Carroll Dist. 2; McCain of Rockingham Dist. 11 - To Internal Affairs)

SB 127, Regulating abortions. (Roberge of Dist. 9; Chandler of Dist. 7 - To Judiciary)

SB 128-A, Authorizing the construction of a Keene bypass extension and making an appropriation therefor. (Blaisdell of Dist. 10; Schwartz of Cheshire Dist. 13; Lamar of Cheshire Dist. 16; Blacketer of Cheshire Dist. 12; Parker of Cheshire Dist. 11; Pierce of Cheshire Dist. 17 - To Capital Budget)

SB 129-FN, Relative to the establishment of inclusionary zoning. (Krasker of Dist. 24; McLane of Dist. 15; Densmore of Grafton Dist. 3 - To Public Affairs.)

SB 130-FN-A relative to the trust fund for the prevention of child abuse and neglect. (Podles of Dist. 16; Preston of Dist. 23 - To Finance)

SB 131-FN, Prohibiting the sale of communist-manufactured liquor and alcoholic beverages in New Hampshire. (Chandler of Dist. 7; Hounsell of Dist. 2; Locke of Belknap Dist. 6; Welch of Rockingham Dist. 10 - To Ways and Means)

SB 132, Relative to the appointment of the executive director of the department of fish and game. (Hounsell of Dist. 2 - To Development, Recreation and Environment)

SB 133-FN, Relative to immunizing children. (Podles of Dist. 16; Wilson of Strafford Dist. 4; E. Wheeler of Hillsborough Dist. 10; Butler of Rockingham Dist. 11 - To Public Institutions, Health and Human Services.)

SB 134-FN-A, To commission a study of an environmental risk insurance fund and making an appropriation therefor. (Pressly of Dist. 12; Wright of Rockingham Dist. 23; Dickinson of Carroll Dist. 2; Price of Hillsborough Dist. 28; King of Grafton Dist. 6; Derosier of Hillsborough Dist. 26 - To Insurance)

SB 135, Relative to limiting damages recoverable for non-economic loss (Freese of Dist. 4; Blaisdell of Dist. 10; Hawkins of Belkap Dist. 5; Fraser of Merrimack Dist. 6 - To Insurance)

SB 136, Relative to joint and several liability. (Freese of Dist. 4; Blaisdell of Dist. 10; Hawkins of Belknap 5; Fraser of Merrimack Dist. 6 - To Insurance)

SB 137, Relative to voting in state and presidential primary elections. (Stephen of Dist. 18 - To Executive Departments)

SB 138, Relative to sessions for correcting the checklist. (St. Jean of Dist. 20; Buckley of Hillsborough Dist. 42 - To Executive Departments)

SB 139, Relative to election law dates. (St. Jean of Dist. 20 - To Executive Departments)

SB 140, Relative to credit card interest rates charged by banks and other financial institutions. (Stephen of Dist. 18 - To Banks)

SB 141, Naming the interstate bridge between New Hampshire and Maine the Sarah M. Long Bridge. (White of Dist. 11 - To Transportation)

SB 142-FN-A, Increasing rates for shared homes and for certain residents of community living homes and making an appropriation

therefor. (Freese of Dist. 4; Chandler of Dist. 7; Blaisdell of Dist. 10; Hawkins of Belknap Dist. 5 - To Public Institutions, Health and Human Services)

SB 143-FN, Reestablishing an advisory committee on state economic development and local population growth. (Heath of Dist. 3; Bennett of Grafton Dist. 9 - To Development, Recreation and Environment)

SB 144-FN, Establishing a committee to study industrial development marketing. (Bond of Dist. 1; LaMott of Grafton Dist. 5 - To Development, Recreation and Environment)

SB 145-FN, Relative to study of the state classification system. (Dupont of Dist. 6; Ward of Grafton Dist. 1 - To Executive Departments)

SB 146, Establishing state speed limits consistent with the current national maximum speed limit. (Dupont of Dist. 6 - To Transportation)

SB 147, Relative to surety bonds. (Dupont of Dist. 6 - To Public Affairs)

SB 148, Relative to procedures for distribution of certain federal funds allocated to the state. (Preston of Dist. 23; Blaisdell of Dist. 10; LaMott of Grafton Dist. 5; Densmore of Grafton Dist. 3 - To Executive Departments)

SB 149, To prohibit regulations which exclude a municipality's fair share of multi-family housing. (Blaisdell of Dist. 10 - To Public Affairs)

SB 150-FN-A, Relative to safety improvements to the Spaulding turnpike and making an appropriation therefor. (Torr of Dist. 21; Torr of Strafford Dist. 6 - To Capital Budget)

SB 151-A, Relative to traffic improvements at the intersection of New Hampshire routes 9 and 155 and making an appropriation therefor. (Torr of Dist. 21; Torr of Strafford Dist. 6 - To Capital Budget)

SB 152, To modify the subdivision approval process. (Delahunty of Dist. 22 - To Public Affairs)

SB 153-FN, Relative to planning for the long-range energy requirements of the state and making an appropriation therefor. (Pressly of

Dist. 12; Price of Hillsborough Dist. 28; Derosier of Hillsborough Dist. 26 - To Development, Recreation and Environment)

SB 154-A, Relative to a second bridge across the Nashua River in the city of Nashua and making an appropriation therefor. (Pressly of Dist. 12; Nelson of Dist. 13; Jacobson of Hillsborough Dist. 26; Zis of Hillsborough Dist. 28; Levesque of Hillsborough Dist. 30; O'Rourke Hillsborough Dist. 35; Wood of Hillsborough Dist. 27 - To Capital Budget)

SB 155-FN, Relative to the collection of tolls on an incomplete turnpike highway system. (Pressly of Dist. 12; Price of Hillsborough Dist. 28; Derosier of Hillsborough Dist. 26 - To Transportation)

SB 156, Relative to the highway construction and reconstruction programs. (Pressly of Dist. 12; Price of Hillsborough Dist. 28; Derosier of Hillsborough Dist. 26 - To Transportation)

SB 157, Relative to the relocation of toll booths or widening of access traffic arteries that are determined to be a major bottleneck to the motoring public. (Pressly of Dist. 12; Price of Hillsborough Dist. 28; Derosier of Hillsborough Dist. 26 - To Transportation)

SB 158, Relative to limitations of prosecutions of sexual assault offenses. (Pressly of Dist. 12; Price of Hillsborough Dist. 28; Derosier of Hillsborough Dist. 26 - To Judiciary)

SB 159, Relative to the regulation of gasoline franchises. (Pressly of Dist. 12; Stephen of Dist. 18; Price of Hillsborough Dist. 28; Holmes of Merrimack Dist. 13 - To Transportation)

SB 160, Relative to the necessity of obtaining a permit for excavation. (Pressly of Dist. 12; Price of Hillsborough Dist. 28; Derosier of Hillsborough Dist. 26 - To Transportation)

SB 161-FN relative to state annuity benefits for group II members of the New Hampshire retirement system and making an appropriation therefor. (Dupont of Dist. 6 - To Insurance)

SB 162-FN establishing the New Hampshire ski area commission. (Hounsell of Dist. 2; Bond of Dist. 1; Disnard of Dist. 8; Brown of Belknap Dist. 4; Whitcomb of Grafton Dist. 1; Dickinson of Carroll Dist. 2; Rodeschin of Sullivan Dist. 2 - To Development, Recreation and Environment)

SB 163-FN relative to chiropractic. (Blaisdell of Dist. 10; McCain of Rockingham Dist. 11; Pierce of Cheshire Dist. 17; Blacketer of Cheshire Dist. 12 - To Public Institutions, Health and Human Services)

SB 164-FN relative to solid waste management contracts. (Disnard of Dist. 8 - To Development, Recreation and Environment)

SB 165-FN relative to the tax on municipal bonds. (Chandler of Dist. 7 - To Public Affairs)

SB 166-FN abolishing the sunset review process. (Chandler of Dist. 7 - To Executive Departments)

SB 167-FN allowing permanently and totally disabled veterans to take courses at any state technical institute or vocational-technical college at no charge. (Chandler of Dist. 7 - To Education)

SB 168-FN-Aestablishing a foster parents ombudsman council. (Heath of Dist. 3 - To Public Institutions, Health and Human Services)

SB 169-FN relative to adoptive parents. (Chandler of Dist. 7 - To Public Institutions, Health and Human Services)

SB 170-FN relative to licensure of mental health professionals. (Bond of Dist. 1 - To Public Institutions, Health and Human Services)

SB 171-FN amending the administrative procedure act. (Blaisdell of Dist. 10; Charbonneau of Dist. 14; Townsend of Sullivan Dist. 1; Mace of Rockingham Dist. 21 - To Internal Affairs)

SB 172-FN regulating the taking of certain wildflowers and plants in New Hampshire. (McLane of Dist. 15; Greene of Rockingham Dist. 18; Campbell of Rockingham Dist. 20; Lewis of Merrimack Dist. 5 - To Development, Recreation and Environment)

SB 173 relative to disclosure of motor vehicle defects. (Blaisdell of Dist. 10; Preston of Dist. 23 - To Transportation)

SB 174-FN eliminating the Social Security offset provision for service and disability retirement benefits for group I members under the New Hampshire retirement system. (Blaisdell of Dist. 10; McLane of Dist. 15; Hough of Dist. 5 - To Insurance)



SB 175-FN providing a cost of living increase for New Hampshire retirement system members. (Blaisdell of Dist. 10; Hough of Dist. 5; McLane of Dist. 15 - To Insurance)

SB 176-FN changing financial disclosure requirements. (Freese of Dist. 4 - To Internal Affairs)

SB 177 relative to campaign financing. (St. Jean of Dist. 20; Flanagan of Rockingham Dist. 8; Jacobson of Merrimack Dist. 2; Hall of Hillsborough Dist. 16 - To Executive Departments)

SB 178-FN permitting the president of the New Hampshire Education Association to be eligible to participate in the New Hampshire retirement system. (St. Jean of Dist. 20 - To Insurance)

SB 179-FN relative to number plates on motor vehicles. (Chandler of Dist. 7 - To Transportation)

SB 180-FN-A relative to restoring the original state house and making an appropriation therefor. (Krasker of Dist. 24; St. Jean of Dist. 20; Heath of Dist. 3; Hounsell of Dist. 2; Sanderson of Rockingham Dist. 25; LaMott of Grafton Dist. 5; Vartanian of Rockingham Dist. 20 - To Internal Affairs)

SB 181-FN creating a state holiday and changing the date in towns for mailing tax bills. (Hounsell of Dist. 2 - To Public Affairs)

SB 182-FN-A relative to medical examinations and administrative cost assessments under the New Hampshire retirement system. (St. Jean of Dist. 20 - To Insurance)

SB 183-FN relative to coverage for mental or nervous conditions. (Podles of Dist. 16; Krasker of Dist. 24 - To Insurance)

SB 184-FN relative to medical assistance for the categorically needy. (Dupont of Dist. 6; Chambers of Grafton Dist. 12 - To Public Institutions, Health and Human Services)

SB 185-FN allowing certain cities to set their own tax rates. (Dupont of Dist. 6 - To Public Affairs)

SB 186-FN relative to current use assessment and the rate of the land use change tax. (Dupont of Dist. 6 - To Public Affairs)

SB 187-FN-A relative to the Weeks traffic circle. (Dupont of Dist. 6; Torr of Dist. 21 - To Capital Budget)

SB 188-FN relative to registration of autocycles. (Dupont of Dist. 6 - To Transportation)

SB 189-FN Establishing a committee to study the economic impact of selling the Seabrook Station, Unit 1 nuclear electric generating facility. (Roberge of Dist. 9 - To Development, Recreation and Environment).

SB 190-FN relative to financial disclosure by appointed officials. (Stephen of Dist. 18; Hounsell of Dist. 2 - To Internal Affairs)

SB 191-FN relative to physicians and medicaid and medicare fees. (St. Jean of Dist. 20 - To Public Institutions, Health and Human Services)

SB 192-FN-A establishing the office of state auditor. (White of Dist. 11; McCain of Rockingham Dist. 11 - To Internal Affairs)

SB 193 reinstating the charter of United Energy Systems, Inc. (Nelson of Dist. 13 - To Executive Departments)

SB 194-FN relative to carrying pistols and revolvers without a license. (Nelson of Dist. 13; Disnard of Dist. 8; Podles of Dist. 16 - To Judiciary)

SB 195-FN relative to nonprofit housing projects and the Senior Citizens Housing Development Corporation of Claremont, Inc. (Disnard of Dist. 8 - To Public Affairs)

SB 196-FN-A relative to health hazards in the home. (Disnard of Dist. 8; Charbonneau of Dist. 14; Jacobson of Hillsborough Dist. 26 - To Public Institutions, Health and Human Services)

SB 197-FN relative to alarm installers. (Bartlett of Dist. 19 - To Executive Departments)

SB 198-FN relative to special number plates for Lions Club members. (Bartlett of Dist. 19 - To Transportation)

SB 199-FN relative to branch banking. (St. Jean of Dist. 20 - To Banks)

SB 200-FN permitting group II state employee members who reach age 60 to make an election for retirement benefits. (McLane of Dist. 15 - To Insurance)

SB 201-FN-A relative to boat speeds on public waters and making an appropriation therefor.(McLane of Dist. 15; Nelson of Dist. 13; Dingle of Strafford Dist. 4; Blair of Grafton Dist. 8 - To Development, Recreation and Environment)

SB 202-FN relative to the state treasurer. (Charbonneau of Dist. 14; Johnson of Dist. 17; Blaisdell of Dist. 10; White of Dist. 11; Dickinson of Carroll Dist. 2; Kidder of Merrimack Dist. 2; Lewis of Merrimack Dist. 5 - To Internal Affairs)

SB 203-FN relative to fees for business entities registered or exempted under the securities laws and to limitations on the exemption for small issues of securities. (Disnard of Dist. 8; Pantzer of Merrimack Dist. 11 - To Insurance)

SB 204-FN relative to the tax assessment of land subject to growth management ordinances. (St. Jean of Dist. 20 - To Public Affairs)

SB 205 transferring the administrative authority for bingo. (Blaisdell of Dist. 10; Dupont of Dist. 6 - To Ways and Means)

SB 206-FN providing for special number plates for organizations serving persons with walking disabilities. (Nelson of Dist. 13; McCann of Hillsborough Dist. 31 - To Transportation)

SB 207-FN relative to the funding of catastrophic illness from taxes on tobacco products. (Roberge of Dist. 9 - To Ways and Means)

SB 208 adopting uniform commercial code article 2A - leases. (McLane of Dist. 15 - To Executive Departments)

SB 209-FN relative to implementing national standards for specific information signs. (Hounsell of Dist. 2; Freese of Dist. 4 - To Transportation)

SB 210-FN relative to minimum education standards for elementary and secondary schools. (Hounsell of Dist. 2; Disnard of Dist. 8; Chandler of Dist. 7; Heath of Dist. 3; Dupont of Dist. 6; Hounsell of Carroll Dist. 2; Boucher of Rockingham Dist. 23 - To Education)

SB 211-FN relative to a license fee for clean-up of gasoline and oil underground storage tank leaks and spills. (Hounsell of Dist. 2; Heath of Dist. 3; Holmes of Merrimack Dist. 13 - To Development, Recreation and Environment)

SB 212-FN-A increasing financial aid to certain municipalities for water treatment projects; making an appropriation for the Winnipe-

saukee River Basin treatment facility; and permitting state participating in a Clean Water Act state revolving loan fund. (Dupont of Dist. 6; Podles of Dist. 16; Torr of Dist. 21; Stephen of Dist. 18; White of Dist. 11; Torr of Strafford Dist. 6; Arnold of Hillsborough Dist. 33 - To Capital Budget)

SB 213-FN relative to utility relocation assistance. (Dupont of Dist. 6 - To Transportation)

SB 214 relative to the allocation of the state's tax-exempt private activity bond limit. (Blaisdell of Dist. 10; Bartlett of Dist. 19 - To Insurance)

SB 215-FN-A relative to the funeral expenditures of certain indigent recipients. (Blaisdell of Dist. 10; Hounsell of Dist. 2 - To Public Institutions, Health and Human Services)

SB 216-FN establishing a fire standards and training council within the department of postsecondary vocational-technical education. (Bond of Dist. 1 - To Education)

SB 217-FN relative to school administrative units. (Johnson of Dist. 17; Bond of Dist. 1 - To Education)

SB 218 relative to clean indoor air. (Torr of Dist. 21 - To Public Institutions, Health and Human Services)

SB 219-FN-A relative to treatment programs as an alternative DWI penalty and to a multiple DWI offender residential program and making an appropriation therefor. (Torr of Dist. 21 - To Public Institutions, Health and Human Services)

SB 220-FN relative to redemption after a tax sale. (Torr of Dist. 21; Phelps of Merrimack Dist. 1 - To Public Affairs)

SB 221-FN-A relative to the due date for the meals and rooms tax return. (Freese of Dist. 4; Disnard of Dist. 8; Lemire of Coos Dist. 8 - To Ways and Means)

SB 222-FN relative to increased independence of the public utilities commission consumer advocate. (Johnson of Dist. 17; Pressly of Dist. 12; Read of Rockingham Dist. 28 - To Internal Affairs)

SB 223-FN authorizing a New Hampshire technical institute security force. (Freese of Dist. 4 - To Executive Departments)

SB 224-FN relative to licensing estheticians. (Nelson of Dist. 13 - To Executive Departments)

SB 225-FN relative to a Martin Luther King holiday. (McLane of Dist. 15; Pressly of Dist. 12; Arnesen of Grafton Dist. 7; King of Grafton Dist. 6; Long of Hillsborough Dist. 25 - To Public Affairs)

SB 226-FN relative to the rainy day fund. (McLane of Dist. 15 - To Ways and Means)

SB 227-FN relative to rate stabilization for alternative energy producers. (Johnson of Dist. 17; Roberge of Dist. 9; Pearson of Belknap Dist. 5 - To Development, Recreation and Environment)

SB 228-FN relative to disobeying a law enforcement officer. (Nelson of Dist. 13 - To Judiciary)

SB 229-FN relative to health clubs. (Pressly of Dist. 12; Price of Hillsborough Dist. 28; Derosier of Hillsborough Dist. 26 - To Public Affairs)

SB 230-FN reinstating the position of sealer of weights and measures in Nashua. (Pressly of Dist. 12; Price of Hillsborough Dist. 28 - To Public Affairs)

SB 231-FN relative to manufactured housing zoning. (Krasker of Dist. 24; Densmore of Grafton Dist. 3 - To Public Affairs)

SB 232-FN relative to the board of barbering and cosmetology. (Nelson of Dist. 13 - To Executive Departments)

SB 233-FN relative to capital budget requests for airports in the state. (Dupont of Dist. 6 - To Capital Budget)

SB 234-FN authorizing the commissioner of health and human services to transfer authority for operation of medical assistance programs. (Bond of Dist. 1 - To Public Institutions, Health and Human Services)

SB 235-FN relative to municipal and county bonds. (Stephen of Dist. 18; Hounsell of Dist. 2 - To Public Affairs)

SB 236-FN relative to the chief medical examiner and associate chief medical examiner. (Dupont of Dist. 6 - To Public Institutions, Health and Human Services)

SB 237-FN relative to the controlled drug act. (Dupont of Dist. 6 - To Judiciary)

SB 238-FN relative to bail reform. (Dupont of Dist. 6 - To Judiciary)

SB 239-FN relative to electronic privacy. (Dupont of Dist. 6 - To Judiciary)

CACR 20, Relating to: size and tenure of senate. Providing that: the senate shall consist of 36 members, each elected to a 4 year term. (White of Dist. 11; Charbonneau of Dist. 14; Johnson of Dist. 17 - To Internal Affairs)

CACR 21, Relating to: rulemaking authority. Providing that: the general court may delegate regulatory authority to executive branch officials, but such rules may be disapproved by the general court. (Hounsell of Dist. 2; Bartlett of Dist. 19; Dupont of Dist. 6; Preston of Dist. 23; Coulombe of Coos Dist. 8; Copenhagen of Grafton Dist. 12; Mace of Rockingham Dist. 21; Palumbo of Rockingham Dist. 10 - To Internal Affairs)

SJR 1, Against communist tyranny. (Hounsell of Dist. 2; Heath of Dist. 3; Chase of Rockingham Dist. 28; Granger of Hillsborough Dist. 13; Welch of Rockingham Dist. 10; Locke of Belknap Dist. 6 - To Public Affairs)

SR 2, Relative to a high frontier defense system. (Chandler of Dist. 7 - To Internal Affairs)

## HOUSE MESSAGES

Mr. President, the House of Representatives have passed the following bills and asks concurrence from the Honorable Senate.

## INTRODUCTION OF HOUSE BILLS

Senator Hounsell offered the following Resolution.

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered #19 through #65 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

## First and Second Reading and Referrals

HB 19, Relative to the election laws. Executive Departments.



HB 88-FN, Relative to the pesticide control board; rulemaking hearings, exemptions, and definitions. Executive Departments.

HB 45, Relative to maternity and infancy. Public Institutions/Health and Human Services.

HB146-FN, Relative to sunset review of the department of health and human services - office of the commissioner. Public Institutions/Health and Human Services.

HB 147-FN, Relative to sunset review of department of health and human services - division of mental health. Public Institutions/Health and Human Services.

HB 40, Relative to bond given by administrators of estates. Judiciary.

HB 162-FN, Relative to sunset review of the board of tax and land appeals. Ways and Means.

HB 190-FN, Relative to district court venue in landlord and tenant actions. Judiciary.

HB 31, Relative to boating on Wakondah Pond in town of Moultonborough. Development, Recreation and Environment.

HB 150-FN, Relative to sunset review of New Hampshire Hospital. Public Institutions/Health and Human Services.

HB 151-FN, Relative to sunset review of veteran's home. Public Institutions/Health and Human Services.

HB 109-FN, Relative to sunset review of coordinator of highway safety. Transportation.

HB 138-FN, Relative to sunset review of the department of safety division of motor vehicles. Transportation.

HB 145-FN, Relative to sunset review of New Hampshire port authority. Internal Affairs.

HB 98, Relative to adultery. Judiciary.

HB 18, Permitting independent voters to vote in a primary and change their registration back to independent on the same day of the primary. Executive Departments.

HB 65, Restricting power boats on Lake Wicwas in the town of Meredith. Development, Recreation and Environment.

### HOUSE MESSAGE

Mr. President, the House of Representatives concurs with the Honorable Senate with the passage of the following titled bills sent down from the Honorable Senate.

### HOUSE CONCURS

SB 11-A, relative to replacing the Hampton Beach seawall and making appropriation therefor.

### COMMITTEE REPORTS

SB 39, an act removing the reference to a candidate's domicile on state general election and primary election ballots. Inexpedient to Legislate. Senator Freese for the committee.

SENATOR FREESE: The committee felt that it was unnecessary legislation and is recommending inexpedient to legislate. Adopted.

SB 41, an act relative to unclassified state employees. Ought to Pass with Amendment. Senator Bartlett for the committee.

SENATOR BARTLETT: The department held an open hearing regarding the matter of the Governor appointing unclassified people to commissions and the suggested amendment is on page 7 of the calendar. It was the feeling of the committee that people who are appointed to state office, agencies commissions or boards, appointed by the Governor or by the Governor's Council, should make a decision that if they feel that this job is important enough for them to take it, that they should live within the state. The original bill called that they must move within the state within 6 months. The amendment as suggested by the committee that that period of time be extended to twelve months. I think the committee felt it was consistent with our philosophy that if we are going to rule and control the state that it should be done by citizens who reside in our state.

SENATOR WHITE: I wonder if this would grandfather any state employee that has accepted the position, not to have to conform with it?

SENATOR BARTLETT: This was not designed at any one individual. It was designed for future appointments.

SENATOR WHITE: From the current employees, I don't know how many would be affected by it, but I do know of at least one. I don't know if it was a controversial appointment but I don't know if there are any others. Sometimes you have highway crews that perhaps might live in Vermont and work for the State Highway Department.

SENATOR BARTLETT: These people are appointed by the Governor and the Governor's Council and that's not highway crews and we're not down to that level. This is the agency level and I do know that there is one. I don't know, but if you feel more comfortable, I don't mind if we pass over and have legislative services prepare an amendment to be brought forth today. We'd like to deal with as many as possible. If you wish we will pass over this and have legislative services do that, if that is the wish of the body.

Senator Bartlett moved to lay SB 41 on the table.

Adopted.

SB 42, an act relative to employees of the sweepstakes commission. Ought to Pass. Senator Delahunty for committee.

SENATOR DELAHUNTY: This bill was written especially to affect the employees of the sweepstakes commission. It pertains specifically to these employees. It will prohibit a commissioner, an executive director, an assistant director or a games manager from accepting employment with a sweepstakes vendor or a potential vendor. It also prohibits him from working as a consultant or a lobbyist within this area. It also prohibits a vendor, holding a valid contract for a vendor bidding on a contract with the sweepstakes commission, from employing a commissioner, an executive director, an assistant director or a games manager of sweepstakes commission. This section also contains a penalty. The vendor will be barred from bidding for 10 years if he violates provisions of this section. The time frame for both sections is 3 years; that is the former employee of the commission may not work in this area for 3 years and the vendor may not employ someone from the commission until there has been a time lapse of 3 years from the date of his leaving. There may have not been any improprieties in the past. It was felt that there was a need to tighten up this area. The sweepstakes commission, because of the high volume of dollars handled, not only must there be no improprieties, there must not be any temptational appearance of improprieties, hence the bill. This bill was sponsored by Senator Ralph Hough and if you have any questions of a technical

nature, I would yield the floor to him. Otherwise I would hope that the whole Senate would agree with the Senate Executive Departments Committee and vote this bill ought to pass. Thank you.

Adopted. Ordered to 3rd reading.

CACR 11, an act providing that Senators be elected for six years and the Governor be elected for four years. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: This is at least the third time that the contents of this CACR has been heard in its current form. In 1985, the Senate Committee on Executive Departments reported this bill out as inexpedient to legislate. The feeling of the 6 year term for U.S. Senators, which this does not pertain to, would be a more deliberative body. Interestingly enough, the 4 year term for Governor and the 6 year term for State Senators under this would run the same as those in the national office of President and the U.S. Senate. It is the feeling of the committee that the 2 year term, although it is difficult, as indicated by the proponents of this bill with constantly campaigning and so forth, that you do maintain a closer contact with your constituents and we're not here for the convenience of the elected political figures. We're here to serve those who elected us. So it is the desire of the committee that this be put out inexpedient to legislate and I urge your support.

Adopted

CACR 12, an act the General Court shall meet biennially and receive mileage for not more than 90 legislative days during the session, but not after the first day of July following the biennial assembly of the Legislature. Ought to Pass. Senator Bartlett for the committee.

SENATOR BARTLETT: It was the feeling of the committee that we have had two years of annual sessions. We don't see any remarkable improvement in State government. We do see an ever increasing cost in the expense of the legislature. We now find that the department heads, instead of spending part of every other year over here in the legislative body, they're spending every year over here, so that the department heads are becoming almost full time lobbyist for their departments. Another thing that is very important to me and was important to the committee, that annual sessions, although we have not seen the effectiveness as yet, that it may restrict the members of this legislature to people who are retired, people who are affluent or people who are unemployed. We do personally know

that several people did not run for reelection in the Senate, or at least one in the Senate did not seek reelection, because the time caused him being away from his business. I think that if we're to continue a citizens legislature and to hope that we get a broad spectrum of citizens to perform and work, that we would be better able to do so if they knew they only had to be responsible in their legislative duties for six months in the two year period rather than a 10 or 12 month period. It certainly offers an opportunity to serve your state and still make a living and do the things that you find necessary in life. We urge the adoption of the committee report.

SENATOR WHITE: I rise in support of the motion on the floor. I would just like to point out, if we are now only in the second or third week in February and we're trying to rush through our bills so that we can get out in a timely fashion, I find that we're really not spending much time on any of the legislation that comes before the different hearings. We hear the bills and we act on them that day. In the last year and the year before, we had very little time to work on Interim Study because there really isn't any time left by the time you've finished the session and then you start up the next session. I find that Interim Study has become a worthless motion almost, because you don't have time to do any in-depth study. I think we need that second year to really deal with bills that should be referred to Interim Study and have some work done on it. So, I find that we're not having any time. We're going to suddenly get overwhelmed if you look at the proposed Joint Rules when we get the bills coming over from the House. I don't think we as a Senate are going to be able to pay attention to the work that we were elected to do and that is to run the State as we see it for constituents. I think that the only way that we can have meaningful legislation and have it done as Senator Bartlett pointed out, by a citizen legislature, is to return to the biennial session. You are going to find fewer and fewer men that are able to come because they have to work. Already, you see an increase in the amount of women, not that I have anything against women, but soon you might have, I mean right now we have six women sitting here in the back row. I would find, if I were having to support my family, a very difficult time to take two full six month periods away from work. I don't see how we can continue having young business men. I think that a citizen's legislature is to bring in people from all various backgrounds and I think that in the Senate you definitely will lose that atmosphere. Therefore I rise in support of the pending motion.



SENATOR NELSON: Isn't it a fact that the people of the State have already voted on a constitutional amendment for this?

SENATOR WHITE: I think that when they voted, it was a very misleading question. The question put to the people was currently that the legislators were in session for 90 session days, according to the constitution, and would you favor having that split to 45 days each year. In essence they wouldn't be there any longer than they currently are because instead of being there 90 days, they would only be there 45 days. I think the people didn't understand that that was session days and never have we ever spent 45 days in session in any one year and yet we're here for committees. So I think it was an unexplained constitutional amendment. Not only that, I believe the time that was on the ballot, there were 13 questions on the ballot and they just went down and usually they voted no. That time they went down and voted yes for everything, because there was very little publicity that got out on how it was to be done and I think they, perhaps, did not understand that we were going to be full time legislators.

SENATOR NELSON: Would you believe that it is possible that more women might help the State?

SENATOR WHITE: I completely agree with that. I believe in the ERA and I believe more women would help. But sit in some of the committees. Who are some of the people who aren't there and it's the men that aren't in the committees, it isn't the women. I think we need a broader base to get better input.

SENATOR PODLES: I would like to ask a question of Senator White. Senator White would you agree with me that annual sessions also contribute to the high cost of government?

SENATOR WHITE: Yes I do. The more that we're here, the more we spend and I think if you look at how much money we spent in 1986, it was not necessary to spend the money. Yes, I agree. Regrettably we spend more money.

SENATOR BARTLETT: Senator White, by your knowledge, do you know how many times the annual sessions issue was placed before the voting public before it was passed?

SENATOR WHITE: I think that we're going to have a difficult time getting this through.



SENATOR BARTLETT: Would you not agree that if this is put on the ballot now, it will be almost 4 years of annual sessions that the public would be able now to see the difference between biennial sessions and annual sessions, where before they had nothing to refer to?

SENATOR WHITE: I would hope that they would have a better understanding. If they didn't I would certainly do a circuit tour of the state to explain the pitfalls of annual sessions.

SENATOR PRESTON: My stand on this bill certainly is not anti-femininity in any way, but I respectfully disagree with some of my democratic colleagues and support the Senate President's floor report on this issue. We've run for this office and we abide by the wishes of the constituency, but the end results as I see them is the result, that annual sessions are no better. For reasons already mentioned, I think the demands on department heads and commissioners I wonder, frequently, how they get anything done responding to the political committees that are now meeting almost on a year round basis. We now have year round staff; legislative services is gearing up; more bills seem to be coming in each year; they're going to try and limit the bills. That's impossible because every session is a full grown session. Really critical is a point made by Senator Bartlett that we used to have a taxi driver sitting here that worked nights and was a State Senator representing an average person. We had a nurse sitting in the chair here who worked nights and got out of work sometimes at 7:00 in the morning, come in and acted as a State Senator. Her role in public health and human services was invaluable. We had a gentlemen in the real estate business that was here as a young man representing a Senator and was forced to leave because of commitments. Biennial sessions almost precluded a broad cross-section of all our constituency served and now we've made it worse and we're making the Senate particularly an elite club. I think we will further close the doors on those. I can recall one that used to work in Somersworth, who can no longer participate because of the demands made on them. I think that some of the business men and women sitting in this room are going to find that the time commitment will be too great for them. I think we've made matters worse and I respectfully request that we vote this as reported.

SENATOR HOUGH: I rise against the committee report and I'm against this CACR and I vote accordingly. I've listened to our Senate President indicate his feelings on this issue, Senator White, Senator Preston. I think that they are remiss. People that have spoken, they

understood and they question about what the people of New Hampshire know when it comes to ratifying our constitution. All of these arguments and all of these points that are being made go right back to this room and go right back to that room on the other side of that wall. The people of New Hampshire recognize that it is important for us, as a legislative body, to be in existence on an annual basis, to address the needs of the people of this state, and to have it otherwise, you'd have administrations in the executive branch of government addressing the needs of the people outside of the legislative process. We've seen good examples of special legislative committees that have been used outside of the full and open light of the legislative process address the needs and concerns. Yes, government costs money. No one ever said democracy came cheap and if we have to be here on an annual basis because the people want us to be here on an annual basis. It behooves this body and our colleagues on the other side of the wall to discipline ourselves. We had a not too successful first session, if you will, first biennium where we met under annual sessions. Whether we operate under annual sessions or biennial sessions, of the sixteen years that I have been in this legislature, we were always meeting but one and we had special sessions. At one time in the mid 70's, we ran three special sessions in tandem that went from January through November 15th before we got a budget. Now it's up to us and the public looks to us to pass rules, to structure the way we conduct ourselves so that we can meet and we can address the needs and if it requires members of the executive branch and administrators to come in and give us updates on an annual basis, so be it. That's no different than reporting to a board of directors. But to take the position, and I'm afraid that you have to admit that there is a presupposed bias among the majority of you in this room, and to take the position that we are going to exacerbate the will of the people and we're going to prove to them that annual sessions can't work, don't work and will not work is to miss the point. We should meet our responsibilities and we should act in a more correct fashion. There is no reason for us to go from January to June on an annual basis. We can get in here and we can accomplish what it is that we have set out to do. We are trying and members of the rules committee have been working very hard to protect the membership, to allow them all of the flexibility, on the one hand, without allowing these sessions to protract out into the future, meeting on a year-round basis. Annual sessions do not preclude a broader participation in the legislative process. They actually could, if we would conduct ourselves properly, encourage it. There is no reason that we can't work within a four month and, hopefully, a three month time frame on an annual basis. The leadership of the session is committed to

doing that. For all intents and purposes, we did not meet or act in the month of January and we're hoping not to be meeting in the month of June. So, we've gone from six to four and if we put our efforts into it we can shrink those time frames. The people have spoken; we have a constitutional amendment; they expect us to meet on an annual basis. Now, instead of trying to pass another CACR and let them have another second vote on it, the members of the press are now allowed to be on the floor of the Senate, so there can be no misunderstanding of the words that are spoken here. The recollection is that I was referring to the executive branch and the administration branch's ability to use interim legislative committees to address the administrative problem outside legislative oversight and if we were to meet once every two years, there would be greater attempt and I think the administrations have exacerbated the legislative process.

Roll call requested by Senator Hough  
Seconded by Senator McLane

Those in favor: Senators Hounsell, Freese, Chandler, Roberge, White, Podles, Johnson, Stephen, Bartlett, Torr, Delahunty.

Those opposed: Senators Bond, Hough, Disnard, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Preston, Krasker.

12 Yeas

10 Nays

Motion lost. 3/5's vote required for ordering to 3rd reading.

SB 26, an act prohibiting homosexuals from donating blood. Inexpedient to Legislate. Senator Nelson for the committee.

SENATOR HOUNSELL: I would like to substitute the words Ought to Pass for the committee's recommendation of Inexpedient to Legislate for the purpose of introducing an amendment.

Roll call requested by Senator Hounsell.  
Seconded by Senator Stephen.

Those in favor: Hounsell, Chandler, Roberge, White, Podles, Stephen, Bartlett, Preston.

Those opposed: Bond, Freese, Hough, Disnard, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Johnson, Torr, Delahunty, Krasker.

9 Yeas

13 Nays

Motion failed.

SENATOR WHITE: Is it possible at this point to put in another motion of recommit?

CHAIR: It is at this time.

SENATOR WHITE: I would move that we substitute the motion of recommit to committee so that we can have a public hearing on the subject material covered in Senator Chandler's bill. I think it is important that the Senate at least speak on that issue. I think that is the only way that we can have a public hearing and that's how we got into the situation we did in the Judiciary Committee, because it had not had a public hearing. I think this way that, if the Chairman of the committee was willing to accept a recommittal, we could have it done that way and bring it out on the floor as a clean bill.

Senator Podles moved to recommit to committee.

SENATOR PODLES: I support the motion to recommit this bill to my bill as Chairman of Judiciary. I would like to have a public hearing on it. I would like it to be scheduled also on the calendar.

SENATOR MCLANE: If the bill that is now before the House passes, would we then be having two public hearings on two different bills?

SENATOR PODLES: Yes.

Roll call requested by Senator Hough.

Seconded by Senator Charbonneau.

Those in favor: Senators Bond, Hounsell, Freese, Chandler, Disnard, Roberge, Blaisdell, White, Nelson, Podles, Stephen, Bartlett, Torr, Delahunty, Preston.

Those opposed: Senators Hough, Pressly, Charbonneau, McLane, Johnson, Krasker.

16 Yeas

6 Nays

Motion Adopted.

CACR 13, an act relating to terms of office for judges. Inexpedient to Legislate. Senator Preston for committee.

SENATOR PRESTON: This constitutional amendment would allow judges other than supreme court justices to be reappointed at the end of six years, up to the approval to the Governor and Council. This is not a question of giving in to the courts in a lot of these bills. This seems to be a real intrusion on the judicial branch. At present, there are no significant problems in the courts and thank heavens we've been fortunate. We don't have the problems that you read about in many of the other states. CACR 13 runs contrary to the independent rule of the judiciary and, just think, a judge in his sixth year responding with a defendant before him that might have some political connections and so forth. There's no need to place the judge into a political process like this. In fact, I think it could have harmful effect. I think in some ways we've come a long way with the Governor and Council seeking recommendations from the judicial council as to the competence of judges. So, numerous means now exist for an effective review of a judge's conduct and I think recently there was a case where a judge either resigned or retired because of some behavior and it was handled very properly and promptly. Justice Brock outlined his concerns and indicated to us we could be establishing here a little challenge from the legislature if we did something when there's no problem.

SENATOR WHITE: In support of the committee report, I think there are a few facts that were pointed out by our Chief Justice during the hearing which I think were very relevant to the non passage of this bill. Basically the Supreme Court back in 1978 finally took over the running of the Judicial System and I think that, up until that point, there really wasn't any head of the judicial branch of the state government! And then in 1984, the American Bar Association set down a standard of procedures of evaluating judges. We in New Hampshire are beginning to follow some of those standards of procedures so that we are beginning to evaluate the judges that we currently have in New Hampshire. I think that we are beginning to step forward. I believe in judicial review, we have not had it in the past. I think that we will begin to have it in the future when the Supreme Court takes hold of all the responsibilities that were given to them in 1978 and re-emphasized when we passed the court bill, House Bill 200, back in 1983. So, I think that we are beginning to come into an era where the judges will be reviewed and I think let's give them a chance to follow up on their responsibilities.



Adopted.

### TAKEN FROM THE TABLE

Senator Bartlett moved that SB 41 be taken off the table.

Adopted.

SB 41, Relative to unclassified state employees.

Senator Bartlett offered the following Floor Amendment.

SENATOR BARTLETT: You have before you an amendment to SB 41 that I believe takes care of the concern of Senator White and others about people who are appointed prior to the effective of the act and I urge that we vote the amendment as presented.

SENATOR CHANDLER: Senator Bartlett, when you explained the bill before, I think you said something that has been amended to make it within a year and this amendment says 6 months?

SENATOR BARTLETT: Senator, that's correct. If you look at the floor amendment as opposed to the amended analysis, you will find that the floor amendment is the first amendment we'll deal with and then we'll deal with the 12 month one afterwards. The analysis is incorrect.

### Floor Amendment to SB 41

Amend the bill by replacing section 3 with the following:

3 Applicability. The provisions of this act shall only apply to persons appointed on or after the effective date of this act.

4 Effective Date. This act shall take effect 60 days after its passage.

Floor Amendment Adopted.

### Committee Amendment to SB 41

Amend RSA 21:33-a, IV as inserted by section 1 of the bill by replacing it with the following:

IV. That such appointee shall become a resident of this state within 12 months of taking the position.



Committee Amendment Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Preston in the chair.

SB 13-FN, an act increasing the assets permitted in order to qualify for the expanded elderly exemption. Inexpedient to Legislate. Senator Pressly for committee.

SENATOR PRESSLY: This bill was introduced at the request of the selectmen for the purpose of aiding the elderly in their town. Due to the skyrocketing real estate values, it increases the amount of assets for the elderly and, in many cases, the increase places them above the limit to qualify for an elderly exemption. Presently, the amount is \$50,000 and this bill would extend it to \$80,000.

The feeling of the committee is that this bill could have far reaching ramifications as it would affect the entire state and not just Warner. One of the concerns raised was the imposition of an increasing tax burden on the towns and the general opinion of the committee is that this should be a local option. There are numerous house bills covering this topic that are currently in the process. The committee feels that the bill, as is, is inexpedient to legislate. I would be happy to take any questions.

Adopted.

SB 35, an act relative to the filing of capital improvement plans by municipalities and the effect of failure to file. Ought to Pass with Amendment. Senator Johnson for the committee.

SENATOR JOHNSON: The RSAs already provide that cities and towns will provide to the office of planning certain town documents, such as master plans, zoning ordinances, historical documents ordinances, building codes and so forth. What this bill does is to add the capital improvement plan among those documents from the cities and towns which now would be submitted to the office of state planning. The representative from the office of state planning conveyed to the committee the importance of having these documents on file in the office of state planning, not only for the benefit of the office of state planning, but in order to assist the office of state planning in carrying out its responsibilities to assist the cities and towns.

The amendment deletes from line 9 on the bill itself the new language so long as it is filed within one year of its adoption. The opin-

ion of the committee is that that clouds this issue and raises some question about the validity of documents and therefor the committee voted to delete that portion of the bill. Otherwise we recommend ought to pass.

#### Amendment to SB 35

Amend RSA 675:9, I as inserted by section 1 of the bill by replacing it with the following:

I. A copy of each master plan, zoning ordinance, historic district ordinance, capital improvement plan, building code, subdivision regulation, historic district regulation, site plan review regulation or amendment which is adopted by a municipality shall be placed in a central file with the office of state planning; provided, however, that failure to file these documents or amendments with the office of state planning shall not affect the validity of the document.

Amendment Adopted. Ordered to Third Reading.

HB 23, an act relative to halfway houses. Ought to Pass. Senator Bond for the committee.

SENATOR BOND: RSA 151 requires every house to be licensed by the division of public health services. The division of public health services requested that the duplicate RSA 172-A be repealed since it serves no purpose and it would clarify their rule.

Adopted. Ordered to Third Reading.

HB 28, an act relative to retention schedules for depository libraries. Ought to Pass. Senator Krasker for the committee.

(tape inaudible)

Adopted. Ordered to Third Reading.

HB 89, an act relative to library regions. Ought to Pass with Amendment. Senator Krasker for the committee.

SENATOR KRASKER: The amendment talks about regions and what this legislation will do, in effect, is talk about the division of the state for the purposes of divisions of the automated centers to provide consistency and just call it areas of the state rather than regions. It's just in the area of consistency.

## Amendment to HB 89

Amend the title of the bill by replacing the title of the bill with the following:

AN ACT  
relative to library areas.

Amend RSA 201-D:6 as inserted by section 1 of the bill by replacing it with the following:

201-D:6 [Regions and] Areas. The state shall be divided into 4 or more library [regions] areas. [Each region shall consist of one or more library areas.] These areas shall coincide geographically with the local automated systems. Each area may include one or more cooperatives. The commissioner shall set the number and boundaries of [regions and areas] the areas as the automated networks develop. The goal of these decisions shall be to promote cooperative efforts on a local basis and to promote the most efficient use of local and state library resources.

Amendment Adopted. Ordered to Third Reading

Recess.

Out of Recess.

## ANNOUNCEMENT

SENATOR BARTLETT: Members of the Senate, over the weekend you received some dates on Joint Rules. We had a meeting this morning with the House on Joint Rules. We were unable to come to full agreement. We feel that we are progressing well. I would like to point out that it is not going to be easy to meet these dates. As a matter of fact, we are not going to meet the dates. I don't think that, in anyone's mind, that we can meet these dates in the Senate as presented here unless each of us works together, putting a considered effort in meeting the deadlines established. It appears to the leadership that there is a desire among the Senate and the House to try to adjourn by May 30th. I ask you to look at these dates. You're welcome to your comments. We are in an area where we're joined here today not published in the calendar and we will take any comments regarding these dates from any Senator who wishes to make them. Joint Rules have not had their final hearing because we're without an agreement as yet and I ask you to look at these dates. If we agree upon these dates, I'm going to ask for a commitment from

the Senate to do the necessary effort, time, to meet these dates so that the Senate bills will be acted upon in the House. It may well be that we'll meet 2 days in the first week of March and 3 days in the second week. I have a question. How many in the Senate present here are involved in town elections, which I understand are March 10th? Is there anyone here that would have a conflict if the Senate meets on March 10th? Let me go one step further. I understand your concern; what if we have an abbreviated session, if we're out of here by 2 o'clock in the afternoon? I ask you to look at these dates. If we're going to meet them, it's going to take the effort of the majority of the Senate to work with the committee chair people. I realize that we have made it a little more difficult by extending the sign-off date, also by making next week sort of a leisurely week. I thank those committee people who have decided we do have a problem, understand the problem and are holding committee meetings next week and trying to help us meet the deadlines, so that we can do our business in the Senate in a proper manner. I'll answer any questions.

SENATOR WHITE: I'm trying to get around to as many towns on town election day because the selectmen are there and if they have any concerns, it's a good time to speak with them and we do vote during the day. My town meeting is held at 7 o'clock that night. We already have capital budget overview meeting Monday morning at 9:30 am.

SENATOR BARTLETT: I would like to have sufficient time to handle the bills in the Senate: Would anyone object if we met on Monday say at 11 o'clock?

SENATOR JOHNSON: What days are you looking at? You have something in your hands that you are referring to, am I missing something?

SENATOR BARTLETT: It is my understanding that these have been mailed to everyone in the Senate. There is a letter of February 13th, that we are currently meeting with the House to establish Joint Rules. One of the proposed rules is that all bills are sent to the House on, and we talked of March 5th. We knew we couldn't meet the March 5th date, so we agreed on March 12th and that is the content of the letter and it said that March 19th is cross-over. I hope that everyone got a copy of that letter.

SENATOR HOUGH: I rise today to address this body under the provisions of Rule 44. The contents of my 44 are such that I must tell you I'm a very saddened person. Because, on this floor, a very close

friend, a colleague with whom I have served a number of years, I think you will all agree that he sold his soul for 30 pieces of silver and now sits on the dias. Those of you who know me and who have served with me realize and will recognize that I have used Rule 44 very cautiously. I do so recognizing that through the efforts of our President in a fair, honest, forthright, non-devious and manipulating fashion. The actions of the Minority Leader on this floor today, in concert with those that wish to flaunt the will of the people of New Hampshire, leave me feeling that for once I am glad that I am not a member of your party sir.

### RESOLUTION

Senator Dupont moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage and all titles be the same as adopted and that they be passed at the present time.

Adopted.

### Third Reading and Final Passage

SB 42, an act relative to employees of the sweepstakes commission.

SB 41, an act relative to unclassified state employees.

SB 35, an act relative to the filing of capital improvement plans by municipalities and the effect of failure to file.

HB 23, an act relative to halfway houses.

HB 28, an act relative to retention schedules for depository libraries.

Senator DuPont moved that the Senate be in recess until March, 3 1987 at 10:00 a.m. for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings.

Adopted.

Recess.

Out of Recess

Senator Dupont moved that the Senate now adjourn from the early session and that when we adjourn we adjourn until Tuesday, March 3, 1987 at 12:30 p.m.

Adopted

### LATE SESSION

Senator Dupont moved that we adjourn.

Adopted.

*Tuesday, March 3, 1987*

Senate met at 12:30 p.m.

Senator Blaisdell in the chair.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

### LET US PRAY

Lord, You are a lantern unto our feet and a light unto our path. Guide us in the right way as we face the controversial issues. Help us Lord.

Amen

Senator Chandler led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

### NOTICE OF RECONSIDERATION

Senator Preston served a notice of reconsideration on CACR 12

CACR 12, An act the General Court shall meet biennially and receive mileage for not more than 90 legislative days during the session, but not after the first day of July following the biennial assembly of the Legislature.

### COMMITTEE REPORTS

SB 40-FN-A, An act relative to catastrophic aid and making an appropriation therefor. Ought to Pass with Amendment. Senator Disnard for the Committee.

SENATOR DISNARD: Before we start, I would request my fellow Senators to be sure and turn to page 11 so they can read and understand the amendment, please. The amendment is very simple. It only concerns the sum of \$5 million added each year of the biennium 1988 - 1989, to the amount of money which the governor has appro-



priated in his budget, approximately \$1.6 for 1988 and \$1.8 for 1989. All this is, is an amendment relating to an amount of money that does not concern any ages, it does not concern any other types of legislation, which would have to be worked on during the year. What is catastrophic aid? Catastrophic aid is a regulation of the state that assists the communities that have the highest cost of handicapped placements in the districts. Some districts, we have none. Under this formula, some may have three and some may have four. What this says is that a district, and this is based on wealth, will pay the first \$9,000 of a catastrophic aid. In my town there was a \$98,000 cost. This bill indicates that the community will pay the first \$9,000. In addition, the community must pay the next 20% and the state will pay the remaining 80%. Remember, this is a regulation to assist the school districts with heavy costs relating to handicapped children. Also keep in mind, federal and state laws mandate this. Also keep in mind, when the handicapped laws were first implemented, the State of New Hampshire decided in its wisdom, that they would take care of children 3 to 21, when the federal government, at the time, only said the ages 6 to 18. So here we have a situation where we have the state and the federal government indicating handicapped children should be assisted. Because it is a state and federal law, the state and federal government said, "we will help you." That sounds wonderful, doesn't it? I wish to call to your attention the fact that the state is helping and they're only funding catastrophic aid 15% to 20% in the districts. The districts are getting 15 to 20¢ on the dollar, on the average, that the state should be paying a dollar. Last year, if the state fully funded the catastrophic aid, the state would have funded or appropriated \$5.8 million. The state appropriated about \$1.6 million and that's where the figure arrived at. In my district, where the \$98,000 pupil is, the state should be funding that youngster, according to the formula, to the amount of a little over \$71,000. The state graciously will be funding that \$71,000, which is their share, to about \$17,000.

You have in front of you, a print out indicating most of the communities in your areas that would be receiving money under the catastrophic formula, if it was fully funded. If you will take the last page, it might be a little easier for me to explain. The second column indicates about 943 students of the catastrophic aid, or 943 most expensive handicapped kids. The second column shows that the full cost can be paid for the handicapped expenses of these 943 most expensive people, almost \$16 million. The state, under its formula, graciously agrees to pay about 1/3 of the cost. Next to the last column, \$5.8 million. However, for 1986 their only funding is \$1.2 million. If

this \$5 million is passed each year of the budget, your community would receive the amount of money in the next to last column. Your communities, if it is not funded in the addition of money of which the governor's budget includes, it will only be funded in the amount of the last column. What I am saying is, Bedford, rather than receiving \$12,500, would be receiving \$98,000. Berlin, receiving close to \$16,000, under the formula would be receiving \$36,000. Concord would be entitled to \$254,000 under this formula, but would only receive \$23,000 if we follow the governor's budget. Derry, instead of \$43,000, will be receiving \$170,000 which the formula calls for. Dover, the formula calls for \$91,000, if the \$5 million is appropriated. Under the governor's budget they will be receiving \$21,000. I can go on, take Kearsarge, instead of \$2,400, they would be receiving \$49,000. Keene, rather than \$26,000 if this was funded by the regulation, it would be receiving \$127,000. I can go down thru every one of these that you have there. Manchester would be receiving \$509,000 rather than the \$66,000 under the governor's budget. Imagine you're a school board member and you're trying to establish a budget according to the formula. You go to your voters, your legislative body, and ask for the money that you need to run your school district and you find out, come next June, you only receive 15 to 20¢ on the dollar. How are you going to get the alderman, the councilman or the people of that community, that voted that budget the previous year, to understand what you're saying? They are going to say, "you told us on the school board what we are going to get," and the school board has to say, "sorry, that was an appropriation, but the state did not fund the formula the way it should." You also might be interested to know that the House Education Committee under HB 350 on a vote 17 to 0 voted for an identical same bill this week. I guess what I'm trying to say, and along with it, I know and I realize it's the first bill. We told the voters and the citizens they should assist the handicapped. I don't think anyone is going to quarrel on that. We told the citizens in each community, in order to help the handicapped, we are going to assist you with some money and we are not doing it. I heard all of us vote several weeks ago, unanimously, to vote in Senator Hough's suggestion of \$13 plus million for placements. What's the difference? If you can approve \$13 million for placements because the state promised these bills will be paid, how can we disagree that the catastrophic aid should not be funded. Are you aware that the governor's budget, in the area of foundation aid, that the governor has promised us the guarantee of \$32 million to help the foundation? Are you also aware that that \$32 million is \$10 million less than tax money than it was last year? Are you aware of the fact that the building aid is going to be funded \$2 million less than they are going

to be next year and the following year? Think of the reputation of the state and the bonding. How will bonding counsel and how will people who lent the bond react, that the state of New Hampshire is not going to fully fund for less than \$2 million of the next biennium, building aid, when the money was borrowed, under state statute to reimburse school districts 30% to 55% of their aid.

I understand there maybe an amendment today to put this on the table. I'm appealing it. How can this be difficult to understand? All we are asking is to have the catastrophic aid fully funded. We have an obligation to our voters. I've heard many of you come to me and say, "George, as chairman of the Education Committee of the Senate, what can we do to get more aid for foundation?" I'm asking you people who proposed those questions to me, can you vote against this when this is an answer to the citizens in your community who help with your taxes?

SENATOR HOUNSELL: Senator Disnard, without passing anything, I want to thank you for the hard work you put into this. I think you have done a tremendous job, I think you have an awful lot of knowledge on it. But as you're speaking, and as I have been struggling on how I am going to vote, I am reminded about that \$13 million emergency we had to fund. I'm thinking of the situation that took what was told to us to be a \$6 million expenditure and threefold it to \$18 million. What I'm wondering, and maybe you can help me, because we have to have safeguards that this is not all of a sudden going to be unconscious placements made. Are there safeguards, are there any restrictions or state agency oversight or legislative oversight of some sort, so that we can contain costs? I'm afraid as we put this much more money into it, and I hear your argument, but I'm looking at what happened and trying to learn from history, recent history. What happens when this much more money goes into it? Can you tell me if there is any safeguard?

SENATOR DISNARD: I hope I can answer your question. I won't give you an answer of yes or no. Cost containment is most important. I had a long discussion with the Governor on this problem. He is concerned about cost containment and so am I. We had come up with what we thought would be an amendment and the Governor, who at that time, if we could get the amendment through, it will support \$2.5 million each year. But the present laws would not permit that. I agree there should be some cost containments. I have approached James O'Neill, one of the Governor's assistants, to sit down with three or four superintendents and myself to see if we

could get a committee of superintendents, school board members, members of the legislature to work out what would be a reasonable effort and means for cost containment. First, rate setting has to be established by the state. The Governor is really concerned about this and so am I and I can see you are. He is concerned and there are other people concerned that the school districts are placing other districts, meaning facilities in state or out of state, but not in the school district. Facilities would not be able to educate them because they don't have the facilities. My answer is, what superintendent or school board in their right mind are going to place students in facilities outside of the school district when they're only going to get 15 - 20% back on the dollar. I agree with you Senator Hounsell, and I have sent the letter to James O'Neill and I promise that I would work in the interim. There's groups I mentioned as examples, who try to work out some real cost containment.

SENATOR HOUNSELL: With all due respect, don't you feel that we should contain the cost before we let the money go?

SENATOR DISNARD: If you felt that way and if the Senate felt that way, I don't know how long you've been here. You told me before and I'm sorry I don't remember, that should have been brought up at the time. Yes, there should be some cost containment. But we pushed this on the districts; we told the districts if they had to do these things that we would reimburse them. Let's reimburse them and live up to our agreements and, in the meantime, try and work out some cost containment.

SENATOR HOUNSELL: If this was to be tabled, not in a malicious sense but in a sense to better this, do you feel there is enough time to work on the containment issue?

SENATOR DISNARD: No. If the state Department of Education and the Legislature hasn't been able to work on this since 1976 when the handicapped laws went into effect, I don't think in a month it's going to happen, I think it is going to take a lot of study, a lot of cooperation and a lot of understanding.

SENATOR WHITE: I am concerned about the cost, which even you referred to as the \$13 million that we passed. Because of that, I would find it very difficult if we did not have some kind of a built-in cap or some way that we could determine that we were not going out of sight on these costs. The second one would be, do you suppose we should take some of the money out of the foundation aid to fund this and to pay our bill?



SENATOR DISNARD: I would like to answer the last question first. No, I do not think we should take money out of the foundation aids. The Governor guaranteed \$13 million. But I think we should take some of the money equal to this past year, some of that \$10 million which is not in the budget, to assist this program. Also, the answer I gave Senator Hounsell, we promised the districts; we made the districts do these things and we said we would assist them. Let's live up to our promises and let's work on some cost containment. I think it is very difficult to go back to communities. Take a look at some of those communities, take a look at Keene-Keene is supposed to receive \$127,000 approximately if this was fully funded. We're telling Keene that we are only going to give you \$26,000. Yet, we tell Keene you must educate all the handicapped children aged 3 to 21.

SENATOR WHITE: Do you think perhaps we should change the law then and go to the federal standards of ages 6 to 18, rather than going from 3 to 21.?

SENATOR DISNARD: Yes, I did agree to that. I spoke with the Governor in the corner office. I mentioned it to the Senate Education Committee. The Governor's office was going to get me an amendment. We held off the Executive session on SB 40; the amendment came in. At the same time the amendment came in, we received information from State Department of Education. The state law now has changed from 3 to 21 following the federal law, so in order to do that we would have to change our law from 6 to 18. However, I found out in doing that, we have children in school, if I could refer to the above-average or average child, the non-handicapped child, from ages 19 to 20. It was called to my attention by the State Department of Education, even if we change the law to 6 to 18, if we are educating children 19 to 20, then we would have to educate the handicapped and give them the same act of agreement. Many of the communities have kindergartens aged 5, as to my understanding from the State Department of Education. If we're educating those children age 5, then we have to give these handicapped children at those ages the same benefits. I guess what I'm trying to say is, so many stop gaps were put up there, it's going to take a while to work it out.

SENATOR KRASKER: The appropriation here no where near covers the actual cost of the next biennium. Isn't it true that there is somewhere around \$9 million?

SENATOR DISNARD: State Department of Education has indicated, Senator Krasker, that there could be almost over \$7 million to

\$7.5 million next year and \$7.5 million to \$8 million the following year, to answer your question. Yes, there we still would be underfunding.

SENATOR DUPONT: I guess the first thing I would start out with, is when I first got elected to come into this body, one of the things that amazed me the most when I got to Concord was the number of programs that the State had made commitments to the local communities and didn't live up to their commitments. Certainly, Senator Disnard has touched on school building aid, catastrophic aid, as two of those areas. My first session I served on a committee with Senator Hounsell and Senator Heath and some House members that looked at the issue of rate setting, which I believe was two or three years ago. Unfortunately it never seems to have the effect that we as legislators look for and, unfortunately, unless you take a look at the dollars after you look at the need for legislative change, you're never going to get that change. I stood up here a couple weeks ago and talked about the \$13 million that we appropriated, the settlement, and gave you all assurances that there would be legislation that would come forth afterwards: that would take care of making the changes so that we didn't find ourselves in run-away cost situations and if you have been following what's been going on in the House with that legislation, unfortunately I can't report back to you positively today that we are ever going to see that legislation. So, I am standing up today, not speaking against sending more aid to our local communities, not speaking against not funding commitments that we make. I guess what I'm looking for is two things: 1, that we make a sincere effort to try and make some changes in this legislation; and 2, that we don't pass the funding until such time as we have a real strong commitment, not only from the local communities but from the department and also from the legislature, that they are going to take a look at these issues. I can assure you when the first state first got involved in Special Ed, nobody was looking at the dollars we are looking at today. The legislature may have voted to authorize state spending for catastrophic aid, but nobody would have had any idea that we would be looking at the dollars we would be looking at today. So, as we assess the need for more dollars, we certainly should address the need for how we are spending those dollars. I think our fiscal commitment to our constituents specifically directs us to be very frugal on how we allocate those monies to take care of the problems that the state has, but make sure that we do it in the most cost effective manner. After I sit down, I am going to ask to be recognized for motion and I'm going to end my speech with that, Mr. President.



SENATOR DISNARD: I noticed Rochester. There wasn't many community voters. They were fully funded for the pupils they have and they received \$40,000. Are you saying that the people in your community who run your schools and your school boards are not conscious of costs for special education and they're just spending money; that they shouldn't spend it?

SENATOR DUPONT: No, Senator I didn't say that, I said that what my community is concerned with is that we spend monies that the state has to spend in a manner that basically is most fiscally prudent, we can and still try to meet our commitments. I spent a number of years on city council and Rochester had to set spending priorities and had to raise monies to pay for education. So, I am very aware of the impact the state aid has and, in the fact, that we haven't lived up to our commitments and I think we ought to live up to our commitments in this area where we're not.

SENATOR DISNARD: What you are saying, then, is that you think the community of Rochester should be receiving that \$40,000, rather than \$15,000? If this is laid on the table you will support this and the \$5 million each year in the biennium with no strings attached?

SENATOR DUPONT: Senator, if this is laid on the table and we make an attempt to get the parties back in and see if we can make the change in the language that will provide us with some of the mechanisms to at least try to get toward that goal of cost containment, then I will support this on the floor as well as support taking it off the table.

We see other areas where we need to recognize and if a private sector come's in to fill those needs they basically have a blank check. They are going to charge whatever they feel they can get for that service.

SENATOR NELSON: Just a clarification if I may, Senator Dupont. Do I understand that you say you are trying to monitor the private schools or the private agencies of the state that deal with never seeing public money, rather than the school systems?

SENATOR DUPONT: I think what I said was, we have to make sure that were spending the taxpayers' money in the most efficient manner. That's the only thing I'm concerned with. I'm not saying that I deny anybody the opportunity to provide that service, that we should deny any child that needs services in the State of New Hampshire, those services.

SENATOR NELSON: Up until this point, have there been abuse of taxpayers' money in the city or in the state that we know of, that we've seen before any of our committees?

SENATOR DUPONT: Senator, when I went through a study group that dealt with cost containment, which recognized right at the time that there was a need for cost containment in this area. Again the issue is, how do you get providers to come in and say that we are spending too much money in this area and that you should slap our hand and tell us to put the money in another area. They are not going to do it. Basically you are going to have the inability for those groups to come in and tell you, which they do. There are other states, Massachusetts and I don't want to point to Massachusetts as an example of anything, but they have a PUC type structure that looks at what services the state or the local communities buy in this area. They establish what the state is going to pay and there are other states that do that. What I am saying is you have an area that is totally unregulated. The school districts will be the first to come in and say, we believe, in some areas that we do pay too much money for these services. Rochester is a classic example. Rochester spent many years in court challenging our state placements, not because they didn't think the need was there; it was inefficient use of the taxpayers' money.

SENATOR ST. JEAN: Senator Dupont, as the distinguished majority leader, you said that your contention is to lay this on the table. Could you give us a time frame when you expect to clarify and clear up the matters at hand to your liking?

SENATOR DUPONT: Obviously Senator, the time frame which I stated, by the fact that I indicated in my conversation with Senator Disnard at that time, I would support laying it on the table. My intent is not going to be to table it to kill this bill; it is to table it to make sure that I am satisfied and that we may have the effort possible to try and rectify this problem.

SENATOR ST. JEAN: Do you believe Senator, that the chairman of the Education Committee and members voted unanimously for this pending piece of legislation and it's my sense that you deserve an up or down vote here today?

SENATOR DUPONT: I think the records from the committee hearing can tell you that. I don't have them here with me. Also, my intentions are sincere and I hope it's your intention to vote for it.

SENATOR HOUNSELL: I would, at this time, not support the committee report and it's because the issue of containment. I don't know about any pending that is going to take place, but I do know that the House is working on a bill and if that bill could be, if it makes due crossover, signed to the Education Committee where, if the House doesn't address the containment issue, the Senate Committee in this body can once again address that. I'm reminded of the increase of the settlement laws are provided all of a sudden. All of the new placements triple under \$6 million cost in just one year. I'm really afraid that the \$5 million that we are spending now, in a year's time would be \$15 million. I really fear that. I'm not opposed to educating handicapped, I think that's our obligation. I support this in the intent of the current law, but I do think that we have this issue that is not going to go away just by putting more money to it and not going to have enough money to put to it next year, if you don't address the issue of cost containment this year. I urge that this body vote no on the committee report of ought to pass.

SENATOR HOUGH: I rise in support of the committee's position and the amendment the committee offered. What you are faced with is your statutory obligation. Now this bill will not be referred to third reading. You know that this bill will be referred to your Committee on Finance and that committee, with all the other demands, including the operating budget, will have to again deal with the dollars. There isn't a person in this room that would lead you to believe that we would be appropriating money in excess of our revenue. I think that some of the problems that we are faced with today and have been faced with, is a reluctance to be honest and understand exactly what the demands are. There is another debate, a debate that I am ready to engage in at any time, that addresses the Ways and Means to recognize our responsibilities. What I suggest to you is that we will not have that debate because of an inability to recognize our obligations and to be willing to pay our bills. You can talk all you want of cost containment, but I think you should bear witness to what Senator Disnard said. What this bill proposes to do, after the initial \$9,000 of cost, is to put in place an ability to assume 80% of the cost in excess of the initial and further compact the communities by an additional 20% variable. The actual experience, not what we have been paying, but the actual experience that the districts and communities are faced with is the figure that drives the \$5 million. The bulk of that expense is being born by the communities and the communities have known for a while that they are ultimately responsible for these costs. They certainly are wise enough not to be engaging into contracts and arrangements that are excessive and out of line. The

policy committee, both in the House and in the Senate, can continue to review this, but quite frankly, in ten years there has been a reluctance. If we meet our statutory obligations, I think you have a better chance of seeing the type of perimeters that you wish. To do nothing or allow this problem to continue to unravel and you will continue to force greater and greater burdens on your local communities. Your Committee on Education has done an exemplary job in taking testimony and developing a resolution to this bill. The correct mode now is to adopt their amendment and this bill then will be in the Committee of Finance, which is sufficiently large and sufficiently broad in terms of the membership of this body, so that when it comes out, it will come out in a mode in which the majority of this Senate will support in relation to all the other demands that are placed on this state. I encourage to uphold your policy committee and pass the amendment and this bill.

SENATOR KRASKER: They increased this to \$5 million a year for the biennium, still not a fully funded figure. Any attempt to table, to re-examine a special education law that has been in effect since 1981, that was very carefully thought out after a couple of hearings, subverts the purpose of this very simple funding bill. If someone wants to look into a change in the special education law, funding and cost containment, it should come through a different vehicle, but not through this one whose purpose is merely to increase the amount of catastrophic aid funding going to local districts. Senate Finance is going to get this; they will look at the funding; if they believe it is inadequate or too much they can make the adjustment. But the law on which this is based was passed by this legislature in 1981 and without public hearing, without careful thought. This is no way to change this law and I would hope that you would vote against any kind of tabling motion and vote in favor of the committee report, which is, ought to pass with amendment.

SENATOR BOND: Senator Disnard, I'm with you and I'm still a Republican. It is not a partisan issue. I would like to point out: 1, that this came before the policy committee, the Education Committee, the policy committee believes that if the state is going to have a statute addressing catastrophic aid, then it should fund it. If it is not going to have a statute on catastrophic aid, then it should eliminate it. If you are going to fund it, fund it so that everyone gets equitable treatment. There are two different formulas that have been discussed today, one is the foundation aid formula that is for equitable distribution of state funds to all communities, based on certain abilities that are defined in the formula. Catastrophic aid, on the other



hand, is designed to deal with certain unpredicted problems that arise within the school system's budget. I just point out that there is a cost containment factor in catastrophic aid already. 2, there is the 80 to 20 split. You don't go spending 20% of your own money to dump a problem onto the state when you are investing 20% in it. 3, July 1987, whether it be \$1.2 million or \$6.2 million, the money will be for expenses incurred in 1985 - 1986. So, if you want to bet on the legislature of the State of New Hampshire a couple of years down the pike for funding, I guess you can dump a kid out into an expensive proposition and incur the expense with the expectation of getting it back. I consider that cost containment. I consider that here we are voting on a policy statement. Finance will look at the financial aspect of it and will consider whether or not there are safeguards that need to be further installed and I would urge you to support the committee position.

Recess

Out of Recess

Senator Bartlett in the chair

SENATOR BLAISDELL: I rise in support of the committee report that changes, knowing full well, that when this vote is taken on the Senate floor, this bill will come to Senate Finance. That will give us the time. Senator Dupont just told me that he didn't feel we would have the time in Senate Finance and I can assure you that we will take the time. This is a very important issue before the people of this state. I am afraid it is now a partisan issue and it shouldn't be. All of our districts are certainly suffering under this bill and I'm for you. I ask you to send this bill along its way to the Senate Finance Committee, so that we can give you the time and the effort to look at this catastrophic bill and send it back on its way in this Senate for another vote. We may not agree in Senate Finance, but I assure that we will give you the details which was mentioned on the floor of the Senate today. That is the committee process, members of the Senate. I hate to see this particular item vary by saying we are going to delay it for a week. You Senators that are pushing the laying it on the table, I know you have good faith and you probably would take it off, but we in Senate Finance are that committee that takes a look at the financial aspects of any bill. Let us do that, then come back on the Senate floor, have your homework done as well as ours.

SENATOR JOHNSON: I'm certainly in support of this bill and I appreciate the comments that Senator Bond made. It is not a partisan issue in my judgement. I recognize the concerns of several of my

colleagues have expressed today in regard to cost containment. I don't think their arguments relative to court ordered placements is really germane to this issue. However, in recognition of what I consider to be legitimate, sincere concerns in questions, I think it is reasonable in my mind to allow this SB 40 to be laid on the table for a week, calling to your attention Senator Dupont's good faith and commitment to bring that off. Lay it on the table for a week, allow the Senate Education Committee to take a closer look at possible cost containment features that could be included in this bill. I agree again with Senator Bond that the local school districts, the people who write the individual educational plans for the students that we are talking about, are indeed cost containment measures for this particular bill. I think, just in terms of merit, we've got to recognize that because the town of Epsom happens to have the student whose individual educational plan is going to cost about \$50,000, that is if, per chance, he meant those people, those citizens, those taxpayers of Epsom should not have to bear that to the kind of burden for this kind of a situation which we recognize when we call it catastrophic aid. The catastrophic aid should be apportioned among the citizens, the taxpayers of New Hampshire and when we have those unfortunate circumstances, like this student in Epsom, costing \$50,000, it should not be born in bulk of it by those good taxpayers of Epsom. But my point is that I'm willing to join with my Senate colleagues on Senate Education Committee and take another look at this and see if we can't come back and neutralize or overcome the concerns that several of you have expressed. I would support laying this on the table for one week.

SENATOR ST. JEAN: Senator Johnson, as a member of the Senate Education Committee, it is my understanding that it was a unanimous vote out of the Education Committee on this SB 40. Could you tell me what has occurred between now and then that individuals have had a change in heart on this pending legislation?

SENATOR JOHNSON: First off Senator St. Jean, I have had a change in heart of it in regard of this legislation. Your question is to what has occurred between when the vote was taken in Senate Education and now, I've just tried to mention the legitimate concerns that have been raised by several members of the Senate, that we have an opportunity to take a look at this for the next week. We ought to be able to overcome or neutralize those kinds of concerns that have been expressed.

SENATOR ST. JEAN: Did you have those same concerns when it was pending before the committee?



SENATOR JOHNSON: I did, yes.

SENATOR ST. JEAN: Were those concerns voiced at that point?

SENATOR JOHNSON: The committee had some discussion on this and did not pursue it probably as far as perhaps we could have.

Roll call requested by Senator Krasker.

Seconded by Senator Nelson.

Those in favor: Senators Bond, Hough, Disnard, Blaisdell, Pressly, Nelson, McLane, Johnson, Stephen, St. Jean, Preston, Krasker.

Those opposed: Senators Hounsell, Freese, Dupont, Chandler, Roberge, White, Charbonneau, Podles, Torr, Delahunty.

12 yeas

10 Nays

Amendment Adopted

Senator Dupont moved to lay the bill on the table.

Roll call requested by Senator Blaisdell.

Seconded by Senator Chandler

Those in favor: Senators Hounsell, Freese, Dupont, Chandler, Roberge, White, Charbonneau, Podles, Johnson, Bartlett, Torr, Delahunty.

Those opposed: Senators Bond, Hough, Disnard, Blaisdell, Pressly, Nelson, McLane, Stephen, St. Jean, Preston, Krasker.

12 Yeas

11 Nays

Adopted

Recess

Out of Recess

Senator Blaisdell in the chair

SB 49, Relative to high school graduation. Inexpedient to Legislate. Senator Johnson for the Committee.

SENATOR JOHNSON: SB 49 is simply reports to allow a school district to issue a certificate of attendance. This bill is unnecessary and inexpedient to legislate because that permission and that authority already exist. Many school districts do that right now, so therefor, there is no reason for this bill.

## Adopted

SB 33, Relative to the language, phrasing and explanation of ballot questions. Interim Study. Senator Stephen for the Committee

SENATOR STEPHEN: The committee met on this bill and voted unanimously to send it to interim study to really study it. The problem with this is a phrase in the language on the ballot at election time. We have a problem, also, with some of the amendments that are listed at election time and if we can limit the amendments also. In studying this bill, we hope that the Senate President could form a committee to study this and look into it.

## Adopted

SB 34, Relative to the advisory budget control committee and the fiscal committee. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This proposed legislation, an act relative to the advisory budget control committee and the fiscal committee, introduced by Senator Torr as prime sponsor, takes care of a matter that has been festering between the House and the Senate for some time. This bill does two things: 1, the Senate and House members of the Joint Advisory Control Committee shall be changed from block voting to individual voting: 2, the Fiscal Committee will be changed from 8 members to 10 members by increasing the number of Senators to five, thus making the Senate and House members equal in number. The Senate Executive Departments Committee recommends unanimously, that this proposed legislation ought to pass and we do expect that the Senate will support the committee report.

SENATOR CHANDLER: Senator Freese, you know, of course, in order to be a member of the AVCC Committee you have to be a member of the Senate Finance Committee? Supposing there wasn't ten members on the Finance Committee?

SENATOR FREESE: It changes the number from four to five, so you could choose. There are always five members on the Finance Committee, I presume, I've never known it to be any less since I have been here.

SENATOR WHITE: I would like to speak in favor of this bill. It is something that we have tried for the past two sessions. I would hope that the wording is amenable to the House and that we have gone from block voting to individual voting. That was one of the problems

that had arisen before. Not only would I hope the Senate would support it; I wish the Senate would support it unanimously, because it is something that the Senate has looked for over the past ten years. It is indeed one of the most important pieces of legislation, as far as the Senate is concerned, because not only does that control all of the federal funds that go on between sessions, but also, it involves the leadership of the LBA. Right now the Senate really doesn't have too much input to the LBA and I think it is important that this piece pass.

SENATOR TORR: I would like to address some of my concerns. There's sort of been an agreement between the leadership of both the Senate and the House and particularly, the House agreed to go to individual voting versus block voting, which is occurring now.

SENATOR BARTLETT: This is consistent with what Senator Torr said, there is somewhat a feeling of cooperation between the two bodies and we have discussed this. We feel that the House gave a little and we gave a little and I think they will look at this in a positive matter. I appreciate the overtures of the House because I think they really came to us and said "let's do something".

SENATOR HOUNSELL: We voted on this last time and kind of knew that it probably wouldn't make it. I really sense the House is going to support this and I am excited about that, not for the Senate, but for the people of New Hampshire and the process that the constitution sets up that the Senate and the House are indeed equal chambers.

Adopted. Ordered to Third Reading.

SB 76, relative to records management and archives. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 76, as the analysis indicates, merely recodifies existing laws relative to records management and archives. We had representation from the Secretary of States office and Administrative Services both on this bill and it does exactly what it says and nothing more.

Adopted. Ordered to Third Reading.

SB 67, Increasing the local share of hazardous material transportation fund fees allocated to local emergency response programs. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This legislation was heard by the Department of Public Safety and passed by the Senate last session. I would appreciate the Senate support of the Executive Committee report of ought to pass.

SENATOR WHITE: Senator Delahunty, I wonder if there should be a fiscal impact statement on this since it's not great, but as those shares increase or decrease, you say the figure at this point is only \$12,000?

SENATOR DELAHUNTY: Last year it was \$12,000; this year's share would go up to \$24,000 or \$36,000.

Adopted. Referred to Finance under Rule #24.

SB 92, Relative to special elections for city and ward officers. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 92 pertains to vacancies in municipal offices and the filling of those vacancies. I had a community in my district, Somersworth, which had a vacancy on the school board. By state law, they cannot fill that vacancy, even though the timing is appropriate as to when a state election falls. Basically, what the bill does is it specifies that they can hold a local election to fill a vacancy only at the same time as the state election. City of Somersworth basically had to hold a separate election two weeks after the state election and, obviously, the turnout is never anything to write home about. This bill basically just cleans it up and allows them to be able to hold that election at the same time as the state election.

Adopted. Ordered to Third Reading.

SB 100, Relative to exemption from regulation of the design, construction, and alteration of certain small structures. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 100, basically in the simplest form, specifies that a building under two and a half stories occupied by less than 50 people will not need a seal of an architect before that building can be constructed. Basically, what it says is that a small construction project does not need architectural services to be built.

Adopted. Ordered to Third Reading

SB 106, Relative to the responsibilities of the commissioner of safety. Ought to Pass. Senator Dupont for the Committee

SENATOR DUPONT: SB 106 came in as a result of an occurrence in the Department of Safety last year or the year before that. When there was a vacancy at the director level at the Department of Safety and when it came time for the commissioner to act for that director, who was no longer there, he found he did have the authority to act as the acting director. Basically, 21G spells out the responsibilities that a commissioner may have in some other departments. Basically what we are doing is giving the commissioner the authority to act in place of one of his directors, if that position is not filled.

Adopted. Ordered to Third Reading

Recess

Out of Recess

Senator Bartlett in the chair

SCR 2, Applying to Congress of the United States to call a convention to propose an amendment to protect the lives of the unborn. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: SCR 2 calls for the U.S. Congress to call a convention to amend the United States Constitution to make abortion illegal. Since abortion was legalized nationwide in 1973, the number of reported abortions has risen from about 616,000 in 1973 to 1.5 million in 1986. This is incredible and a sad destruction of human beings of their own offspring. The constitution makes explicit provision for the state legislators to call for a constitutional convention. Surely a call for recognition for the right to life deserves to be heard loud and clear. This is our only available avenue for our citizens. The committee recommends ought to pass.

SENATOR HOUNSELL: I am convinced that there is no debate more motive, no debate more frustrating, no debate more dividing and no debate more important, than the debate of the right of a person to have control over their body, versus the right of the unborn to live itself. We are asked today to vote on this battle in a series of relative bills that together, practically complete the war between pro choice and pro violence. Let's not fool ourselves. This grand chamber is not the final leader of this conflict. Today is not the final day of debate. The next five bills have importance, but the importance of their disposition today, is found in the main and often forgotten regions why any of us draw even the most pleading of breath. That is hope, we need hope, we need to look forward with confidence and fulfillment that the future rests in the lives of the



unborn. We need this day to vote for their very lives. A great deal is going to be said today and I'm prepared to speak again and if I do, I will defeat and I will fight for the passage of these bills that will support the right of the unborn. I will do so knowing that I do possess great compassion for all the suffering that live among us, yet knowing that a better world awaits us in the future. It belongs to the unborn. So you see, I know that our hope is not here, but awaits us to sweep by and by and I urge you to support the committee report.

SENATOR KRASKER: I'm going to ask the members of the Senate to see the wisdom of this measure and vote against the committee report. What the bill calls for is a convention to amend the constitution. This is a special year for us in our country because it marks the 200th anniversary of our constitution, which is a remarkable document, which has stood the test of time and it does provide for two ways to amend the constitution. In 200 years, we've had 22 amendments to the constitution. They have all come through a proposal first in the congress and then sent to the states for ratification. In 200 years we've never had a constitutional convention to amend the constitution. I think it's a dangerous precedent to establish. There are no rules, no guidelines for the establishment of a constitutional convention. There is no way to limit an agenda, even though this bill does purport to limit the agenda. I see it as a possible Pandora's Box, that once you open, you don't know what will emerge. I think if the proponents of the legislation to prohibit abortion wish to propose a constitutional amendment, they have the recognized avenue, the one that has been effective 22 times. I would urge the Senate to vote against this bill which is open ended and could have repercussions we can't even imagine.

SENATOR HOUGH: I rise to speak against passage of SCR 2. My remarks will be general, they could equally apply to SR 3, 25, 23 and 24. Since the early and mid seventies, when I served in the New Hampshire House of Representatives, it would seem, if my memory serves me correct, every session and every special session the 424 of us were faced with decisions relative to this highly personal and, agreed, very sensitive question. All of us in this room come from varied backgrounds, beliefs and faiths. This country is unique in that they have always honored a tradition that kept public policy separate from one's own personal beliefs. What I might as an individual believe, cannot, should not and must not influence how I represent a diverse and varied constituency. I vote against this because the subject matter does not belong in the public policy arena. I respect those who are pro choice and I respect those who have personal

beliefs to the contrary. There is enough work and there are enough issues that come before this legislature in this session, that deserve our attention and I feel that we should not continue to be faced with these highly personal questions. There seems to be a trend. I'm saying this in all sincerity, but if you read the newspapers since January and if you could take away all of the banner headlines that seem to be the focal point of this legislature, I guess we're going to be talking about adultery in the days to come, we're talking about AIDS, communicable disease and a lot of things and if we could concentrate ourselves on the important issues, the important public policy issues and let some of these other questions that are better addressed on an individual basis, the people of New Hampshire would be better served. I do not subscribe to holding a national constitutional convention on any subject, because I think there's good question as to what a national constitutional convention could turn into. More specifically on the subject of abortion, I think the position of our Supreme Court in the last 10 to 15 years guarantees the personal liberties that we all hold sacred and we should not retard liberty in any fashion. The nation is better served by maintaining the present situation.

Roll call requested by Senator Chandler.

Seconded by Senator Preston.

Those in favor: Senators Bond, Hounsell, Dupont, Chandler, Roberge, White, Nelson, Podles, Stephen, St. Jean, Delahunty, Preston.

Those opposed: Senators Freese, Hough, Disnard, Blaisdell, Pressly, Charbonneau, McLane, Johnson, Torr, Krasker.

12 Yeas

10 Nays

Adopted. Ordered to Third Reading

SR 3, Relative to Fetal Pain. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: In this SR 3, it expresses the consent of the Senate, with respect to the protection of the human fetus from organic pain experienced during abortion procedures and that the state of New Hampshire seeks appropriate measures to protect the human fetus from organic pain. It would call upon congress to seek the appropriate methods of giving the fetus this protection.

SENATOR MCLANE: SR 3 is incorrect for two reasons. 1, a fetus or embryo at the time of abortion does not experience pain, according to all the best medical knowledge that we have, because the brain and the cortex are not joined and it is not possible to experience pain. 2, there is a topical anesthetic used at the time.

Roll call requested by Senator Chandler.

Seconded by Senator Pressly.

Those in favor: Senators Bond, Hounsell, Dupont, Chandler, Roberge, Blaisdell, White, Nelson, Podles, Stephen, St. Jean, Delahunty, Preston.

Those opposed: Senators Freese, Hough, Disnard, Pressly, Charbonneau, McLane, Johnson, Torr, Krasker.

13 Yeas

9 Nays

Adopted.

SB 25, Establishing that human life begins at conception. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: SB 25 establishes that human life begins at conception. The fifth and the fourteenth amendments to the US Constitution proclaim that neither the nation nor a state may deprive an individual of life without due process of law. Congress has the power to enact a legislation in accord with these amendments and, in fact, consider that human life statute in the 97th congress. Unfortunately, congress failed to pass the statute. By adopting SB 25, New Hampshire would send a signal to Washington that human life is not yet protected. This will encourage congress to take up the human life statute again. The committee is on record opposed to abortion and recommends ought to pass.

SENATOR PRESSLY: I rise to state my philosophical position on all of these bills. It saddens me deeply that the people in this room feel that they have the ability to legislate such a personal decision for other members of our society. What exactly is our role? What should government be doing? I feel very strongly that there are many issues where we must make decisions and take a stand, but not in the personal and individual lives of other citizens. There are support groups out there to help the people faced with this most difficult decision. They are capable. Each story is different, each need is different and the solution is different. It saddens me deeply that we,

as a society, are beginning to dictate the personal lives of other people. I cannot support any legislation at such an invasion of the private lives of the citizenry.

SENATOR CHANDLER: It has never been determined anywhere, as far as I have been able to find out, exactly when human life does begin and there's various opinions about it. Scientifically or medically, it could begin at conception, fertilization or some other time. But legally, it begins when there's a law that says when it begins. That's what I hope the Senate will do here today, that it will pass a law, so that here, in the State of New Hampshire, human life will begin at conception. It's up to us, if we make that law in this state, then human life will begin at conception, unless the law is repealed. I hope that this Senate, incidentally, this bill passed Senate last session and went down with defeat in the House, will stand on the grounds and think of their conscience and vote that human life begins at conception.

SENATOR PRESSLY: I would like to pose my question to the body. I think this is fascinating legislation and I look forward to the follow up. I'm wondering if the next piece of legislation would be the determination of just when and where conception may take place and then we could take it a step further. Where are we going to stop the invasion of personal decisions of personal lives? What is going to be the next legislation regarding this issue?

Adopted. Ordered to Third Reading.

SB 23, Relative to wrongful birth actions. Inexpedient to Legislate. Senator Roberge for the Committee.

SENATOR ROBERGE: SB 23 removes the legal cause of action from a person harmed by negligent genetic counseling. It is not the committee's intention to prevent a person harmed from such compensation. Therefor, we found SB 23 inexpedient to legislate.

Adopted.

SB 32, Abolishing the insanity defense, providing for a verdict of guilty but mentally ill, and relative to committal orders. Inexpedient to Legislate. Senator Roberge for the Committee.

SENATOR ROBERGE: SB 32 justice demands that only those found at fault be incarcerated. There is a frustration, however, with those who commit venal crimes who are incapable of forming crimi-

nal intent. We realize that they are not in fault, but fear they may be provoked to horror again. As sponsor of this bill, I continue to believe in this issue, but I also feel, its time has not come. I urge you to find it inexpedient to legislate.

Adopted.

HB 55, Relative to the insanity defense and committal orders. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: HB 55 raises a burden on this committee by granting the defense a plea of not guilty by reason of insanity, to clear and produce the evidence. It also grants the state a mechanism to recommit a person who may become dangerous to himself or others. The committee report is ought to pass.

SENATOR MCLANE: I would like to commend the committee for the excellent work that they have done on the insanity defense. It was in my city that a woman was bludgeoned to death by a man who had been discharged from the forensic unit for having murdered a young child. This was a deep interest of mine in the last session. The bill that you have before you would have meant that this man would've been brought back into the forensic unit long before he committed the crime that he did. He was a person who had been discharged on the condition that he not drink and that he take his medication. Both of these conditions were broken, and yet, there was no way that the state could bring him back into the forensic unit. HB 55 will go a long way, I believe, in strengthening in a legal way what the state can do to prevent such an incident happening again in our city or any other city. I thank you for your work.

SENATOR WHITE: I rise in support of the committee report. I would just like to point out to the Senate that Senator Roberge has in effect killed her own bill to support this one. I think it is pretty much owed to her for making that decision to do it and report both the bills out. It is an important issue. I think it is important that we do pass something in this regard and this is the one the committee settled on.

SENATOR HOUNSELL: Just very briefly, because I know Senator Roberge worked very hard on this bill. For the past 3 years I have been associated with her in the Senate, I thought that she would improve it with a successful conclusion. Congratulations.

Adopted. Ordered to Third Reading.



SB 59, Creating a New Hampshire Civil Law review board to review citizen's complaints against lawyers and judges. Inexpedient to Legislate. Senator Nelson for the Committee.

SENATOR NELSON: SB 59 proposes a creation of a board of citizens to review complaints against lawyers and judges from people who care, by a lawyer or a judge. There are special avenues opened to all citizens in New Hampshire. Pursuant to RSA:494, the Judicial counsel was organized to hear complaints against judges. This mechanism could rise a substantial survey and study of the justices in New Hampshire. Complaints regarding the conduct of lawyers are commonly handled by the Supreme Court and committee of professional conduct. This committee was established by rule 37 which states that they should have one member from every county. Custom mandates three lay persons on that board. This committee has the authority to investigate the conduct of any attorney qualified to practice law in New Hampshire. It can reprimand attorneys privately, or initiate formal disciplinary proceedings before the Supreme Court. Such proceedings can result in public suspensions or disbarment. Though the hearings indicate that some citizens feel this may not be enough, the committee felt that SB 59 was not the appropriate method to address these problems. SB 59 was voted out inexpedient to legislate with a 4 to 1 vote.

Adopted.

SB 60, Relative to referees, auditors and masters. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: HB 60 confuses the judge appointed by the governor in council with the master that is appointed by the court. This is not the proper vehicle to deal with the masters. HB 332 on marital masters addresses the issue in a moral proper way. The committee recommends inexpedient to legislate.

Adopted.

SB 61, Relative to non-judicial officers appointed to hear cases. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: This bill prohibits non-commissioned court appointed offices from determining questions of law in any case they may hear. The bill gives any party to a case which is scheduled to be heard by a non-commissioned court appointed officer the right to have a judge hear the case. This was the third of three bills that we

heard one partiucular day, all dealing with marital masters and the effects of a disputed decision. Basically, what this bill would do would be if someone didn't like the decision of the master, then they could have a judge. It would completely go against the reason we have set up the masters system. The interesting thing that I found in learning about the case of masters, is that the masters system in the State of New Hampshire was put in by law in 1874. It's nothing new to the State of New Hampshire. It's something that we had for 113 years and it is working. This would completely clog the courts and we would hope that you would support the committee report of inexpedient to legislate.

Adopted.

Recess

Out of Recess

Senator Hounsell in the chair.

SB 46-FN-A Relative to catastrophic illnesses and making an appropriation therefor. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: SB 46-FN-A addresses catastrophic illnesses and making an appropriation. The committee is in favor of developing state support for services addressing the comprehensive needs of persons with Alzheimer's disease. HB 376 has a more effective proposal which will be addressed at a later date. The committee recommends inexpedient to legislate.

SENATOR WHITE: I would just like to point out, in addition to what Senator Podles has said, when we had the testimony from the Public Health, they estimated that the fiscal impact of this really should be \$756,844, so that the \$35,000 was not a correct appropriation for this particular bill. That's why we are waiting for the HB to come over, which we felt was written a little bit better to provide the answer to this problem.

Senator Disnard moved to substitute motion for Ought to Pass.

SENATOR JOHNSON: Senator White, I'm trying to understand the fiscal impact here. Are you saying that this would add \$756,000 to state expenditures or that persons afflicted with Alzheimer's disease would simply compete for the existing pot appropriated to catastrophic illnesses?

SENATOR WHITE: What I'm saying is, according to the fiscal impact, which was verified by public health, the true figure is an additional amount of \$756,844. Because of the way it was written, these are not just for medical costs of the bills. They are, indeed, for home health, diagnostic therapy and other associated medical expenses, such as transportation to and from medical facilities. When that was all broken down, public health were the ones that came up with the fiscal note. So if you are going to do the bill, you would have to amend part two to strike out \$35,000 and put in the other figure.

SENATOR JOHNSON: Would this be an entitlement program or would it be based upon some criteria? If the money was not there, the service wouldn't be there, just as we discussed earlier in regard to catastrophic aid and special education?

SENATOR WHITE: There isn't any criteria as you can see in the bill. It's a new addition of Alzheimer's to the catastrophic illness category.

SENATOR JOHNSON: I guess what I'm still not clear on is whether or not this would be an entitlement program, as opposed to an eligibility one?

SENATOR WHITE: I believe it would be an entitlement; I'm not sure.

SENATOR MCLANE: Senator Podles, many of us in the last session worked very hard, in fact, I think the majority of this Senate, to pass a bill calling for an Alzheimer's coordinator. That person who has that job happens to be Ellen Sheradon, my neighbor, and she has done a wonderful job with that program. I would be interested to know if the advisory committee on Alzheimer's, the Alzheimer's coordinator and the department all favor HB 376 rather than Senator Heath's bill?

SENATOR PODLES: Yes, there was no support for HB 46 and they preferred to have HB 376.

SENATOR MCLANE: Thank you, Senator Podles. Would it surprise you to know that I would then support the committee report, even though I care deeply about helping people with Alzheimer's victims?

SENATOR WHITE: Ellen Sheradon did appear before us and spoke against this particular bill, so that she was there as the Alzheimer's coordinator and to speak against it.

Senator Disnard withdrew his motion.

Committee Report Adopted.

SB 66, Relative to the office of reimbursements. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: I would suggest that you turn to page 10 and 11 for the amendment for this bill. It is a very strange amendment, in that it redoes the entire bill. When it went to legislative services, legislative services amended RSA 126A:45 instead of RSA 126A:52 and 126A:53. Therefor, the bill that was printed was not anywhere near what was asked for, so the true bill appears on pages 10 and 11. What it does is remove the requirements that things be done on a monthly basis and it was presented at the request of the Division of Mental Health and Developmental Services, who fortunately at the last minute thought it was the wrong RSA amended. It's a house-keeping bill, so that they can have their reimbursements done in the proper manner. We urge you to support the committee report of ought to pass as amended.

#### Amendment to SB 66

Amend the bill by replacing all after the enacting clause with the following:

1 Deletion of Monthly Requirement. Amend RSA 162-A:52, I to read as follows:

I. The director of mental health and developmental services shall adopt by rule pursuant to RSA 541-A for any patient or resident of an institution named in RSA 126-A:45, a uniform (monthly) rate to cover the expenses of the several categories of service provided to patients or residents such as but not necessarily limited to the following: intensive medical care, treatment and maintenance, intensive psychiatric care, treatment and maintenance, and custodial care, treatment and maintenance. The categories or classifications of service provided may be modified under the rulemaking authority of the director of mental health and developmental services or the director of public health services.

2. Deletion of Monthly Requirement. Amend RSA 126-A:53 to read as follows:

126-A:53 Partial Charges. The director of mental health and developmental services or the director of public health services or the commissioner of health and human services may charge less than

the uniform (monthly) rate when they find a patient or any relative chargeable therewith is able to bear only a portion of the expense incident to his care, treatment and maintenance at such institution, or care, treatment and maintenance furnished at the direction of the commissioner of health and human services. In establishing such charge, the directors or the commissioners of health and human services shall consider the report, investigation and recommended charge of the office of reimbursements. The established charge shall be billed by the superintendent of such institution. The office of reimbursements shall make further recommendations as provided in this section where conditions affecting the ability to pay of persons legally chargeable for the support of the patient or resident have changed. The establishment of a partial rate as provided herein shall not preclude the collection of the balance between the partial rate and the full rate from an estate of the patient or resident or the estate of those legally chargeable as provided in (section)RSA 126-A:47.

3. Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

HB 148-FN, Relative to sunset review of Glencliff home for the elderly. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: HB 148 renews the Glencliff home for the elderly's PAU. The amendment simply brings the bill into conformity with the sunset law, which provides for a six year renewal. Through some error, all of the sunset renewals were made for four years. You will find on page 11 the amendment which provides that the agency will terminate on July 1993, subject to RSA 17G. We urge your support.

Amendment to HB-148-FN

Amend the bill by replacing section 1 with the following:

1 Sunset; Glencliff Home for the Elderly Renewed. Glencliff home for the elderly, PAU 05020502 (formerly PAU 050304), is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.



HB 149-FN, Relative to sunset review of Laconia State School and training center. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: HB 149-FN renews the PAU for the Laconia State School and training center, once again the amendment to be found on page 11 does the same thing, it terminates in 1993 instead of 1991. I urge your support.

#### Amendment to HB 149-FN

Amend the bill by replacing section 1 with the following:

1 Sunset; Laconia State School and Training Center Renewed. Laconia state school and training center, PAU 05020503 (formerly PAU 050307), is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

SB 80, Amending the statutory speed limit on certain highways of the state. Inexpedient to Legislate. Senator Torr for the Committee.

SENATOR TORR: This bill makes the maximum speed limit on all highways from 55 mph to 65 mph except when the speed limit is otherwise posted. As you're aware, the federal regulation now is 55 mph and the State of New Hampshire complied with that by the actions of the commission of safety, who adopted rules establishing the 55 mph speed limit in the State of New Hampshire. Before the Congress now, the Senate has passed the authorization to go to 65 mph, the House has not taken any action on it. The representative from the Department of Transportation for the state of New Hampshire warned the committee not to adopt this measure, as it stands a great potential in loss of federal funds. He cited the example of the State of Arizona, whereby they have been penalized for loss of roughly \$500,000. Therefor the committee reports out inexpedient to legislate on SB 80.

SENATOR DISNARD: Senator Torr, It's my understanding that four lane highways, super highways in the State of New Hampshire should not be 55 mph unless it's a stormy day. It's a lot easier to speed, you could travel at a good 70 mph, is that correct?

SENATOR TORR: You can be arrested, but it has been found in the general practice that the courts will throw that out.

SENATOR DISNARD: So it's really 70 mph?

SENATOR: That's right.

Senator Preston moved to substitute Ought to Pass.

SENATOR PRESTON: I would like to move ought to pass for the committee report of inexpedient to legislate. Chairman, I do so not to be in conflict with a fellow member of the committee, but to be given the opportunity for the Senator of District #20 to offer a floor amendment. As it's indicated, the statutory speed limit is now 70. This bill would have reduced it to 65 mph. None of us are looking for confrontation with the federal government and sanction bill. We in New Hampshire never feared federal threats in this or other issues. I respect and request your support for the motion of ought to pass, to allow Senator St. Jean to offer an amendment that I think will satisfy the other Senators who objected to the bill, as well as, the Department of Safety, that will put us in compliance with any actions of federal government.

Adopted

Senator St. Jean moved for floor amendment.

SENATOR ST. JEAN: I rise with a floor amendment, Mr. President. What my floor amendment does, quite simply, is address the concerns of Senator Torr and other members of the Transportation Committee. It was my sense, in putting in this legislation, what we wanted to do was bring down the statutory speed limit from 70 mph to 65 mph. What this amendment addresses is, in the event that the federal government takes some action in regards to allowing the states to set their own speed limits, this legislation will take effect only in that event and that event alone. So, it's my sense that if the federal government does not act, then this legislation won't go into effect.

SENATOR JOHNSON: The Senate Transportation Committee, chaired by Senator Preston, heard a similar bill or a bill dealing with speed limits on the highways of New Hampshire. This morning, the Transportation Committee voted that bill inexpedient to legislate, not because in strict disagreement with any numerical speed limits that Senator St. Jean is pointing up here, but only that the whole issue of speed limits on federal highways is in a state of flux right now. The recommendation from both the Commissioner of Safety and Representatives from the Department of Transportation is tell-

ing the Transportation that we really should not pass any legislation at this time because this whole issue is in a state of flux and it's on that basis that I would oppose the amendment.

SENATOR ST. JEAN: Senator Johnson, wouldn't you agree that this floor amendment addresses your concerns dealing with the federal government versus giving us the authority here in New Hampshire on posting speed limits and statutory speed limits?

SENATOR JOHNSON: Senator St. Jean, I think, having heard two bills now in regard to speed limits on New Hampshire highways, having heard the warnings from the Departments of Safety and Transportation, I'd be reluctant to agree to that, yes.

SENATOR ST. JEAN: Would you agree that what this bill does, it brings down the statutory speed limit from 70 mph to 65 mph, so in actuality this is a reduction to the statutory speed limit here in New Hampshire?

SENATOR JOHNSON: Senator St. Jean, what I would agree to would be to have the bill referred back to the Senate Transportation Committee for another hearing.

SENATOR WHITE: I rise in opposition to the pending motion and support of the committee report. As it's been pointed out, our current speed limit is 70 mph and we don't know what is going to happen down in Washington. I think until something does come out of Washington, why put something in that may not even be what they will eventually arrive at as a federal level. I think that this is a premature bill. We are already at 70 mph and the state was able to go to 55 mph when that was passed. I think at this point, we might as well wait to determine what happens at the federal level.

SENATOR PRESSLY: Senator St. Jean, if I read your amendment correctly, this would not take effect. The passage of this is, in fact, contingent upon the passage at the federal level?

SENATOR ST. JEAN: You're correct Senator, giving us the authority to set our speed limits at 65 mph in some areas of the state.

SENATOR PRESSLY: In your opinion then, would this enable our state to rather quickly, efficiently, interface our laws with the new federal laws?

SENATOR ST. JEAN: Yes Senator, what it would do is empower the Commissioner of Transportation, with consent of the Governor and Council, to fix the statutory speed limit at 65 mph.

SENATOR PRESSLY: The main objection, as I understood it at the committee level, was the incompatibility between the two governing bodies. It appears to me that your amendment is an effort to satisfy that objection and to bring forth legislation that is healthy and good for the State of New Hampshire. The response time will be immediate and effective. Is that the way you would also interpret that?

SENATOR ST. JEAN: I would concur. This doesn't jeopardize any federal funding and, as an individual who goes up the highways a little quicker than 55 mph, I think 65 mph is safe and a reasonable speed limit at this point.

SENATOR JOHNSON: Senator Pressly, would you agree that given the testimony before the Senate Transportation Committee by the Departments of Transportation and Safety, that warning us of the pitfalls in several bills that we've already had, that the inappropriate vote on this floor amendment without having had the opportunity to hear the people of Departments of Transportation and Safety?

SENATOR PRESSLY: I would agree in part to what you are saying. I think debate is always healthy. If the body would like to re-refer this, certainly that is appropriate. However, in my opinion the problem was the compatibility. This is clearly going to be compatible with the federal regulation and it appears to me that it does address the department's situation. However, further debate is always healthy.

### Floor Amendment

Amend section 5 of the bill by replacing it with the following:

5 Contingent Provision. This act shall take effect upon the passage of Federal Legislation which results in the increase of the Federal Maximum speed limit to 65 miles per hour on certain highways.

6 Effective Date. This act shall take effect in accordance with section 5 of this act.

Roll call was requested by Senator Charbonneau.  
Seconded by Senator Blaisdell.

Those in favor: Senators Bond, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, Pressly, Nelson, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston, Krasker.

Those opposed: Senators Hounsell, White, Charbonneau, McLane, Podles, Johnson.

17 Yeas

6 Nays

Amendment adopted. Ordered to Third Reading.

SB 84, Restricting the use of double trailers in cities and towns of the state. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This is another safety issue out of the Committee on Transportation. This bill relates to the restriction of using double trailers in cities and towns, which are now issued licenses in certain conditions, but they go from terminal to terminal. It was indicated by both sides, really, that there were no accidents, but these vehicles were meant principally to travel on the interstate highway system. There was an example cited of double trailers located in an area of Concord, where they were not supposed to be. This issue was brought forth as safety. One person alluded to truckers and teamsters and that issue was not brought into the discussion within the committee, but for one mentioned. The convincing argument to me in this bill is that the chief engineer or the maintenance engineer of the Department of Transportation said that his office issues the permits and they have specific rules to prohibit. He said very clearly that if this bill is passed as written, that it can clarify the situation of rules that have been passed and now serve as well. I think that really summed it up for me. It isn't a question of size in the issue; it's a question of safety and the issuing body that now issues licenses, but he says, "this will clarify the situation and serve in lieu of a rule that has passed." I read every day of objections by Senators about the power of rules going before the administrative rules committee and I have no problem with the passage of this bill whatsoever. I don't think it serves to anyone's detriment to pass this piece of legislation and I just think you're doing it to reemphasize your feelings of safety and I urge you pass this bill as presented to you. The only other statement I want to make is that I was handed a piece of literature, coming into the chamber, with five items on it. It said that we would arbitrarily deny access which would be in violation of federal service and transportation. I don't think anyone is arbitrarily denying access to anyone and the Department of Transportation has reviewed all of these and sees no problem with this bill.

SENATOR DUPONT: Senator Preston, you indicated by your remarks that this makes no specific policy change. Yet in the bill it says



specifically that no double trailers should be permitted to use the ways of any city or town for purpose of making individual delivery. Is it not your understanding now, at the present time, that if an industry is permitted they are allowed to take a delivery of a double trailer?

SENATOR PRESTON: If its permitted they can take in the two trailers. As I understand they are not supposed to make partial deliveries.

SENATOR DUPONT: But they can, at the present time, take those two trailers.

SENATOR PRESTON: If they obtain permits.

SENATOR DUPONT: Right, under this bill they would not be allowed to take delivery of those two trailers?

SENATOR PRESTON: They will go terminal to terminal.

SENATOR DUPONT: That's correct. So the bill does make a substantial policy change?

SENATOR PRESTON: I don't see that as a result of the answers given us by the Department of Safety on the clarification, as the issue was, that they do now.

SENATOR DUPONT: I'm still not clear. Are you saying that the bill does not make the new changes in the present system, as to the policy of whether or not they can?

SENATOR PRESTON: The answer I was given, merely clarifies what they are doing by the rule now, Senator.

SENATOR DUPONT: Can you assure me, then, that it doesn't make the policy change?

SENATOR PRESTON: I'm assuring you of what was said by a person well respected, Bob Hogan, chief maintenance engineer, who I recorded, that will clarify the rules that are already passed out.

SENATOR PODLES: Senator Preston, isn't it true that rules are already in place in the Department of Transportation. They already prohibit twin trailers from any city or town and that this is a duplication and SB 84 is not necessary, wouldn't you agree with me?

SENATOR PRESTON: No, I don't look at it as a duplication, I look at it as a clarification as expressed by the Department of Transportation. I think if the Senate that will look at this as a duplication, we're saying that the departments are making rules that are serving as law. If you condone the departments making rules serving as law, you should vote against this. If you want to clarify the law, so that we have the safety, you should vote for this bill.

SENATOR PODLES: Would you also agree with me that rules have the effect and the force of law and there is no need for a statute?

SENATOR PRESTON: No, evidently we're on the opposite sides of the issue. If you think the department should make rules that serve as law, I think we should go home. I think if you want to pass laws, then tell the departments what they're to do and not to do, carrying them out, then you've got to vote for this bill.

SENATOR PODLES: I have been told that this is more of a labor problem and it is not a safety problem. Would you agree with me?

SENATOR PRESTON: One person alluded to something about teamsters and truckers, as I indicate, the members of my committee, regardless if you are pro truck or pro teamster, one of the responsible members of the Department of Transportation who issues these permits says to me, "this will clarify a rule that we have already passed to serve this law." That settled the issue for me. I'm not supporting teamsters or truckers. I can look down the road and say this a good bill to save.

SENATOR BARTLETT: Senator Preston, I sat here quite quietly, until I saw that you said, no double trailer shall be permitted to use the ways of any city or town, for the purpose of making individual deliveries. My question is, what is the rule that now exists under the present rulemaking, whom I assume, by an official?

SENATOR PRESTON: I don't know the number of the rule Senator, I just know that under the department of maintenance engineer, they issue permits and they indicated to us that this is now put inside their rules.

SENATOR BARTLETT: I just have some question when it says it shall not be permitted. I understand what you're saying. I think I heard a gentleman from the Highway Department say, there wasn't any problem with this, yet I read this and I wonder. Do you have any thoughts on it?

SENATOR PRESTON: No, it just clarifies the rules now that have been made by the department.

SENATOR BARTLETT: Can a double trailer make an individual delivery under the rule today?

SENATOR PRESTON: They want the double trailers for the one location, as I understand it, but Senator St. Jean corrects it. They do not want single trailers left here. Senator St. Jean can clarify it, but that's my understanding.

SENATOR ST. JEAN: Senator Podles, would you believe, Senator, you were concerned about this particular piece of legislation being somehow associated with the teamsters and in actuality being a jobs bill. Would you believe jobs are determined in the collective bargaining act and certainly not determined by various pieces of legislation?

SENATOR PODLES: I believe that, Senator, but I also have the testimony that was submitted to me by the secretary of the Transportation Committee. I have studied it very carefully and I see where the teamsters have supported this bill. I have been informed that it is more of a labor dispute and has nothing to do with double trailers safety aspects. I'm concerned of the intent. Is it to cripple or to strangle an industry? I think it's an unfair game.

SENATOR ST. JEAN: I would certainly not put in any legislation that is going to cripple the trucking industry, certainly in this State. Would you also believe, Senator, that when we are talking in standard trailers, we're talking about trailers combined that are 65 feet long. Also, they cannot back up more than 2 feet. Our concern in this bill is them coming into cities and making deliveries. Wouldn't you say that that's a valid concern at this point?

SENATOR PODLES: They have an approved route Senator. They have a permit from the local community and also from the state level. The enforcement should be there if they are doing something wrong. But it has nothing to do with the safety of those double trailers.

SENATOR DUPONT: Senator Preston, I have a fairly large employer, in fact, one of the largest employers of the state that has the ability to receive the double trailers now at the present time. They are permitted by the State of New Hampshire and they have the approval of local authorities. I need assurances so that I can assure them that this bill is not going to take away the cost savings that

they are realizing in cutting that capability. It's my understanding that you haven't been able to give that assurance, is that correct?

SENATOR PRESTON: Senator Dupont, the maintenance engineering office issues permits into state and divided highways. They issue no permits in municipal streets now, unless its agreed to in advance by local permit. I don't see how we're going to prevent that or change that.

SENATOR DUPONT: Senator Preston, I guess we could probably go on like this all afternoon, but would there be anybody on your committee or can we get Mr. Hogan in here, that could give me the assurance that this, in fact, is not going to make policy change, because if I can't have that assurance, I can't support this measure. If it only further clarifies what the state is presently doing, then I have no problem with it; but if it is making a policy change, taking away something that is already out there being regulated by the department, then I'm not in the position to support it, so I need that assurance.

SENATOR PRESTON: I would like to give you the answer "trust me," but I know that is not going to work. I'm not aware that this franchises your person in which you say it does.

SENATOR DUPONT: But you can't guarantee me that, can you?

SENATOR PRESTON: I can't guarantee you anything the way the rules have changed. That's why one clarified for this bill.

SENATOR ST. JEAN: Senator Dupont, would you believe I'm willing to make a motion to put this bill on the table until we get a hold of Mr. Hogan to answer this very important question. If he answers it satisfactorily, it's my understanding that you will vote for this particular piece of legislation?

SENATOR DUPONT: If this bill does not take away the right of that company seeing shipments in double trailers, then I will support this bill.

SENATOR PRESSLY: I had asked to speak to give my impression of the hearing and we had a chance to debate a little during the recess. My understanding, based on the testimony that was given, was that this is basically what is being done now; it's a clarification measure. One of the key and critical phrases is "individual deliveries." The process and to apply for a permit still remains and they

have rules and regulations. Any entity can apply to get the direct deliveries. This is in place and being done now. What this is intended to do is to avoid having your double trailers moving freely and indiscriminately throughout the state. They are vehicles of such a nature that they must have a destination point; they must have the ability to unload and then make the individual deliveries. There was no indication that this would cause a financial hardship on anyone. It was clarifying the use of our highways for safety and traffic purposes. I cannot give a guarantee; I'm not an attorney; I'm not in a position to give a guarantee, but we did in fact ask those questions at the hearing. I felt that it was clearly stated that the industries were certainly willing to do this; it's efficient use of their trucks. I see that we have new literature, but that it wouldn't pose any hardship on them. They were basically doing this; it's just clarifying it and I would think it would be a real help to any municipality to understand just really what types of trucks will be passing on their streets. I know, in your congested cities, we see it daily, where these large vehicles do have difficulty maneuvering. I feel, also, that was testimony, that your double trailers do not have the capability to back up. I feel that that is critical as a driver. There are situations, particularly in a congested area where these trucks would have to back up if they get caught or stuck someplace. I do feel that it is healthy for all the municipalities and I don't feel that it will harm anyone. I feel it's worth support.

SENATOR ROBERGE: Senator St. Jean, do the cities and towns still have the ability to give permission for double trailers to come into their town and make deliveries?

SENATOR ST. JEAN: Yes, they do Senator.

SENATOR ROBERGE: We're not taking away the ability to the cities and towns to govern their particular situation?

SENATOR ST. JEAN: Absolutely not. It's my understanding, what they do is, they apply for a routing permit through the Department of Transportation.

SENATOR ROBERGE: Can they still do that if they've been doing it?

SENATOR ST. JEAN: Yes, that's my understanding.

SENATOR DUPONT: Senator St. Jean, it has been unclear so far, the intent of this legislation. You're the sponsor and I know you ha-



ven't had the opportunity to speak on it, but perhaps you can clarify it by telling me exactly what the intent of this legislation is?

SENATOR ST. JEAN: The intent of the legislation is, for tandem trailers to go from the highway to the terminals. Of course, there's a two mile radius in which individuals can travel with approved route to manufacturing outlets. I know that Mr. Hogan spoke of an approval to two or three, if I'm not mistaken, manufacturers within the state. Manufacturers have every opportunity to go to the transportation office and apply to receive tandem trailers, which they would still be allowed to do under this legislation.

SENATOR DUPONT: If a manufacturer was two and a quarter miles, at the present time, outside of that two mile radius, then they would loose their ability to take double wide trailers?

SENATOR ST. JEAN: It's my understanding that there is, in fact, one about that distance away and they could, in fact, still receive tandem trailers. They work with the individuals, as we try to in New Hampshire, in the Transportation Department in regards to tandem trailers.

SENATOR DUPONT: Let's take another senario then, if the access road off the turnpike is a four lane highway past the manufacturer that's located three miles away and the highway would normally be acceptable by the Department of Transportation as a site that would be approved and the local community would approve it, with this legislation they would not be able to approve it?

SENATOR ST. JEAN: It's my understanding that they would, as they have in the past, have jurisdiction in the Transportation Department in that regard and they would have to deem it to be a safe route or not, Senator, and this legislation wouldn't affect that.

SENATOR DUPONT: What does this do then?

SENATOR ST. JEAN: The statute clarifies how tandem trailers are allowed to come off the highway to a terminal facility.

SENATOR DUPONT: Would you explain the last paragraph then, because that seems to make certain changes?

SENATOR ST. JEAN: As Senator Preston explained, it's a clarification of the existing rules of law that are now in existence. Mr. Hogan had no difficulty with this piece of legislation. He agreed that it would clarify it and that's all we are doing here today, is clarifying the rules of tandem trailers.

SENATOR PODLES: Senator St. Jean, isn't it true, when Mr. Hogan came to testify he said, "I neither support or oppose the bill and this is in the rules"?

SENATOR ST. JEAN: To answer your question, he further stated that this particular piece of legislation would clarify and make it easier to track tandem trailers in regards to where they go from the highway to an unloading terminal facility.

SENATOR PODLES: Would you believe it is not in the testimony? Your comment is not in his testimony?

SENATOR ST. JEAN: I sat there, Senator Podles, and I heard him say that, as did Senator Preston.

SENATOR TORR: I attended the hearing and by rules, the Department of Transportation provides that deliveries can be made two miles from the turnpike. They have made one exception to that rule and I believe that it is the Manchester Airport. It's a safety factor, because they do not want double trailers to be using South Willow Street. Therefore, they let them use Route 28 and I believe the measurement is something like 2.1 miles. If in fact you enact this bill that's before you, you are going to remove that ability. It says, "no double trailers shall be permitted to use ways of any city or town for the purpose of making individual deliveries." That's my understanding of the bill. It doesn't even give them the opportunity to make deliveries within the two mile range from a turnpike.

SENATOR FREESE: We've discussed this at some length and we don't seem to be settling in on anything. I, too, got a call as recently as yesterday afternoon with regard to this proposed legislation from one of the concerned truckers that serves New Hampshire. I think he is New Hampshire based and does a lot of trucking with these twin trailers. They certainly interpreted the law, as Senator Dupont has explained, and asked that we not, in fact, make it a law. I would feel more comfortable if we were to put this on the table and I'm not going to propose that. I think the trucker that Senator Dupont spoke of is in his district and I will leave it up to him. But I think that would be the solution until we can get some clarification.

SENATOR DUPONT: I think at this point and time there's an inability to answer my question, so I would like to make a motion to table, to allow us time to find out about the bill.

Senator Dupont moved to lay the bill on the table.

Adopted.

SB 97-FN, Establishing a study committee relative to the feasibility of one-way tolls on part of the turnpike system. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: It was the feeling of the committee, that the concept of SB 97-FN was a healthy one. It creates a study committee to explore the possibility of one way tolls on the turnpike system. This has been done in some areas already and it is being done in the southern tier. The theory being, might this be possible in other sections of the highway system, the turnpike system. It does create the normal committee composed of membership that is a cross section. One of the amendments that the committee did suggest, was that not only should they study the feasibility of the one way toll versus the two way, but to include also its impact on any portion of the New Hampshire turnpike system. It was the feeling of the committee that this certainly is advisable and it would certainly be in the best interest of the state to explore all possibilities of uses of highways and to also explore this idea.

#### Amendment to SB 97-FN

Amend section 1 of the bill by replacing it with the following:

1 Committee Established. There is established a study committee consisting of 2 senators appointed by the president of the senate; 2 members of the house committee on public works appointed by the speaker of the house of representatives; 2 members of the general public appointed by the governor and council; and the commissioner of the department of transportation, or his designee, to study the feasibility of instituting a one-way toll and its impact on any portion of the New Hampshire turnpike system. The committee members shall choose a chairman and a secretary from among them, and the committee shall meet at the call of the chairman. The committee members shall serve without compensation, but the legislative members shall be entitled to legislative mileage when performing duties in connection with the committee. The committee shall make its findings and recommendations to the president of the senate, the speaker of the house of representatives, and the governor and council on or before December 1, 1987.

Amendment Adopted. Ordered to Third Reading

HB 138-FN, Relative to sunset review of the department of safety - division of motor vehicles. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: This bill renews the Department of Safety Division of motor vehicles for six years. The committee recommendation is ought to pass.

Adopted. Ordered to Third Reading.

HB 109-FN, Relative to sunset review of coordinator of highway safety. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: This is perhaps the most simple bill we have today. It simply renews the coordinator of highway safety for an initial six years.

#### Amendment to HB 109-FN

Amend section 1 of the bill by replacing it with the following:

1 Sunset; Coordinator of Highway Safety Renewed. Coordinator of highway safety, PAU 0209, is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amend section 3 of the bill by replacing it with the following:

3 Repeal. RSA 238:12, relative to the advisory committee for traffic safety commission, is repealed.

4 Effective Date. This act shall take effect upon its passage.  
Amendment Adopted. Ordered to the Third Reading.

HB 169-FN, Relative to sunset review of Maine-New Hampshire interstate bridge authority. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This bill renews the Maine-New Hampshire interstate bridge authority for a period of six years under our sunset review process.

SENATOR BOND: Am I incorrect in my reading of this, it says July 1, 1991, which I believe is four years?

SENATOR PRESTON: You are correct.

Senator Preston offered a verbal amendment.

SENATOR PRESTON: I would like to explain what just occurred here. Thank you to Senator Bond for pointing it out. On the sunset review reports in HB 138-FN, 109-FN and 169-FN, it's clear that this bill on the analysis renews the concerned subject matter for six years. But it indicates down below that the agency or program shall terminate the July 1, 1991 and my opinion and the members of the committee is, it should be 1993. So it appears that there is an error on all three and they should be 1993.

Amendment adopted.

Senator Bartlett moved to lay the bill on the table.

Adopted.

Senator Bartlett moved for reconsideration on HB 138-FN

HB 138-FN, Relative to sunset review of the department of safety - division of motor vehicles.

Adopted.

Senator Bartlett moved to lay HB 138-FN on the table.

Adopted.

SB 36-FN-A, Establishing a state liquor store in the town of Belmont and making an appropriation therefor. Ought to Pass. Senator Chandler for the committee.

SENATOR CHANDLER: This bill passed the Senate last session. Representative Parkens from Belmont and I had conferences with the liquor commission and a meeting with the town officials in Belmont, the liquor commissioners feel it would be a profitable operation. It would be a good location for a new store and the committee voted that the appropriation be made to establish a new store in the town of Belmont.

SENATOR WHITE: I rise in opposition to the committee report of ought to pass. I think that this is a poor way to bring liquor stores into the State of New Hampshire. I would hope that they would come from the liquor commissioners and we would give them authority, if they find a profitable area, to put a liquor store in. At the same time, if they find that they have some non-profit stores, they could eliminate those from our list of stores if they were, in fact, in the



same service area. This lies between two liquor stores eight miles apart and I just question when we're keeping our judicial branch within thirty miles apart, why liquor stores have to be only 4 miles apart to serve the public?

SENATOR ROBERGE: As chairman of Ways and Means, I was present at the hearing. As it happens, the liquor store in the town of Laconia is very difficult to get to unless you happen to be very familiar with the city. This particular proposed liquor store would be on Route 3 in a shopping center. It is the opinion of several of the liquor commissioners that this particular location would be an asset to the state. It not only would make money, but it would make money without drawing upon the profits of the other two stores. They don't recommend anything, but they feel that the location of this store would be an advantage of the state.

SENATOR HOUGH: Senator Roberge, I guess my question is that, in the follow up to the quote of Senator White's question. It has been my understanding and my impression that the liquor commission historically has proposed and negotiated with a location of stores, where to be, and legislative specials has trimmed it to oppose. I guess my question is, if they agree that this location is a desirable one, why don't they, through their administration and budget presentation, effect the establishment of the store outside of this specific piece of legislation? Generally, if the liquor commission would come in and say we want an additional store and, in request, we want the funds to set it up and get it going; we want to negotiate with the plazas for the rent. Why, if they support, why don't they do it that way?

SENATOR ROBERGE: I really can't speak to that Senator Hough. I'm just familiar with the hearing on this particular bill being present. This is the way this particular location was advanced to us.

SENATOR HOUGH: The liquor commission didn't oppose it?

SENATOR ROBERGE: No. They did suggest that it would be a profitable location.

SENATOR HOUGH: Would you not agree that, if that were the case, then they have the means where they could get this store established outside of a specific piece of legislation?

SENATOR ROBERGE: I really can't speak to that Senator.

SENATOR FREESE: I'm familiar with the location of this proposed liquor store in Belmont, which is Senator Chandler's district. It is one of the busy malls outside of Laconia and a very heavily traveled road in the summertime particularly and in the wintertime with skiers. I think it would complement the other two liquor stores in the area. One is in Gilford at a very busy mall and one is downtown Laconia in the urban renewal area. This third liquor store in the Belmont plaza, I think, would very nicely complement the other two. I doubt very much that there would be any lost business in the other two stores, because this liquor store that would be established would be more for transit people coming and going on that road. I'm going to support that bill as presented in the committee and the Senate.

SENATOR DELAHUNTY: I guess I sort of support Senator White's position. I have had experience in the area and also in the past in choosing locations. It would be awfully hard to support this bill without having some kind of facts or figures submitted, that would tell me that three stores within an 8 mile radius would be profitable. I just can't believe that you are not going to spread your operating costs out and I would need a little more information to tell me that that was going to be a profitable business. I can't imagine to put three stores within an 8 mile radius, that you are going to generate the volume you need to make the store profitable. I'm just wondering if there are any figures available? Do you know how much gross they need to get for it? Has the lease been worked out? Do we know how much we are paying for rent and so forth and so on?

SENATOR CHANDLER: I'll try to answer that question. The state liquor commission has a set fee of rates and rent that they'll pay and it's very low. A lot of landlords don't want to have the state liquor store as a tenant because of the low rents. However, some shopping centers and other places are anxious to have them because they figure it increases the traffic volume, so they will take a store in at a lower rate than the other tenants will pay. Nobody appeared against the bill at the hearing. In fact, after the hearing Senator Bartlett called up the liquor commissioner and talked to them about it and they said, "they were in favor of this law and they thought they had traffic council two years ago." At this time, we didn't bring up the traffic council and we didn't go into detail because it really had always been approved. This bill got killed with a couple of amendments added from some other stores and then the Senate adjourned before the House did and this was one of the bills that went down the drain, not that anybody was against it.

SENATOR DISNARD: Senator Chandler, are you aware that the state liquor commission, to bypass that low rent, will make agreements with owners of those buildings to install electricity, install ramps and do a lot of work, so in reality they really do not have low rent?

SENATOR CHANDLER: I'll believe it if you say so, Senator.

Adopted. Ordered to Finance under Rule #24.

Recess

Out of Recess

Senator Bartlett in the chair.

SB 24, Prohibiting abortions in the second and third trimester during pregnancy. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: What the amendment does is it prohibits third trimester abortions once the fetus reaches the state of viability and that is the age in which an unborn child can survive outside the mother's womb. In fact, the age of viability has become earlier and earlier and it makes sense to prohibit abortions during that time. What it will do is prohibit only post viability abortions and it allows other abortions.

Senator Podles moved to substitute a floor amendment for the Committee amendment.

SENATOR PODLES: I have a floor amendment for SB 24, that is now before the members of the Senate. What it does is, it prohibits abortions in the third trimester of any pregnancy, unless the purpose of the abortion is to protect the health or save the life of the mother and I urge you to support it.

SENATOR MCLANE: The legislative council for the Senate has worked manfully to try and take an unconstitutional bill and make it constitutional. They have still left in a statement of purpose which says that, the life of the fetus or embryo takes precedence over the life of the mother. I believe that this bill of Senator Chandler's is still a harassment measure for a right that has been constitutionally guaranteed to women. It is the evidence that we have gathered in talking to the Hitchcock clinic and to other hospitals in the state, that there has never been an abortion in New Hampshire over 16

weeks. I learned first hand about viability as I visited Hanover's Neonatal Clinic. For the cost of about \$1,400 a day, babies that I saw with legs as small as pencils are being kept alive and nurtured. No one in New Hampshire has access to an abortion of a baby which is considered viable and so, therefore, for that reason, I would say that not only does this amendment still state a purpose with which I do not agree, but it also is unnecessary legislation because of the good medical practice that we do have in the State of New Hampshire.

SENATOR PODLES: Senator McLane, how can you be against a fetus that is capable of life outside the womb?

SENATOR MCLANE: I am not. What I am saying is that this does not happen in New Hampshire. The legislation is unnecessary for that reason. The first part of the amendment still makes a statement which I disagree with.

SENATOR HOUNSELL: I would point out that, although it does not happen in New Hampshire - thank God that it does not happen in New Hampshire - this bill may go a long way in preventing it ever happening in New Hampshire.

#### Floor Amendment to SB 24

Amend the title of the bill to read as follows:

#### AN ACT

Prohibiting abortions in the third trimester of pregnancy.

Amend the bill by replacing section 1 with the following:

1 New Section: Unborn Children. Amend RSA 132 by inserting after section 11 the following new section:

#### 132:11-a Unborn Children

I. The state of New Hampshire recognizes a compelling interest in protecting the potential life of a fetus.

II. Notwithstanding any law to the contrary, unless the purpose of a third trimester abortion is to protect the health or save the life of the mother, no abortion shall be performed after the fetus has entered the third trimester of the normal 38-week human gestation period.

Amendment Adopted. Ordered to Third Reading.

## TAKEN FROM THE TABLE

Senator Dupont moved to take SB 40-FN-A off the table.

SB 40-FN-A, Relative to catastrophic aid.

Adopted

SENATOR PRESTON: Having voted on the prevailing side, I move reconsideration of SB 40-FN at this time. I would like to indicate that the cause of the legislative tactics or whatever they maybe called, that there was a misinterpretation on the vote. We have some members of the Senate that voted against SB 40-FN, which was certainly not their intention. That placed them in a position of voting against a catastrophic aid bill and the appropriation therefor. They had legitimate questions of the bill and would decide to table. I would urge your support of my reconsideration at this time, of that roll call vote, so that we might once again vote on that measure.

Senator Preston asked for reconsideration of amendment.

Adopted

Senator Preston moved adoption of committee amendment.

## Amendment to SB 40-FN

Amend the bill by replacing section 1 with the following:

1 Appropriation. The sum of \$5,000,000 is hereby appropriated for the fiscal year ending June 30, 1988, and a like sum for the fiscal year ending June 30, 1989, to the state board of education for the purpose of assisting school districts in meeting catastrophic costs in their special education programs. These sums are in addition to any other sums appropriated for this purpose. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

Roll call was requested by Senator Hough.  
Seconded by Senator Krasker.

Those in favor: Senators Bond, Hough, Dupont, Disnard, White, Pressly, Nelson, McLane, Podles, Johnson, Stephen, St. Jean, Torr, Delahunty, Preston, Krasker.



Those opposed: Senators Hounsell, Freese, Chandler, Roberge, Charbonneau.

16 Yeas

5 Nays

### Amendment Adopted

Senator Johnson moved to recommit the bill.

SENATOR ST. JEAN: Senator Disnard, as the chairman of the Education Committee, I look to you for guidance in this matter. Could you speak to the matter of the pending motion?

SENATOR DISNARD: I would not vote in favor of recommitting it to the Education Committee for the following reasons: I gave my word that I would work with the Majority Leader and others on a hope in awakening them, which might be impossible, to work in some type of cost containment. Since I gave my word, I wasn't here, so I couldn't vote in favor of Senator Johnson, even though I know I understand where he's coming from.

SENATOR ST. JEAN: Would you believe, Senator Disnard, that earlier in the day Senator Dupont, the Majority Leader, was kind enough to give me a few days on my tandem truck bill and I, too, being a man of my word, would vote in Senator Dupont's interest, take your lead and vote accordingly?

SENATOR HOUGH: The only thing this motion allows, other than the preceding motion to table, is that you can debate. If you people don't understand what happened to you this afternoon on this issue, then you don't understand what the ramification of what we are doing to one another in the early days of this session. I hate to think of the late hours to come in May.

The majority of people in this body upheld the committee's report, which passed by roll call vote, and was then tabled. Now, through a parliamentary maneuvering, we've allowed for reconsideration after we removed the bill from the table. Then we had a roll call vote reaffirming the committee's amendment. If we are going to allow that type of maneuver and that type of courtesy, if you will, the next logical place for this bill after having two readings and adoption of the committee report, is to take no further action, but to refer to Finance under the rules of the Senate. If this is what you wanted to do and if this is what your understanding was, you don't send it back to committee, you defeat this motion and you defeat every other

motion. You've had an opportunity to affirm your support of the committee amendment that calls for an honest and forthright recognition of our obligations and appropriate \$5 million, in each year of the biennium, to take care of catastrophic aid. What you are doing today, before the town meeting and school meeting next week, is saying to your cities and towns, yes, the State of New Hampshire has a responsibility. I put my vote where my mouth is and I supported an amendment that would appropriate \$5 million to catastrophic aid to help the local communities. You put this into the Senate Finance Committee and you support it when it comes back out. The level of appropriation will have to be taken into consideration with all other demands placed upon the state. But to think you could be recorded on a roll call vote, seven days before your town meeting and your district's school meeting, saying yes, I support the Education Committee's level of funding and recommendation of \$5 million, then put that on the table and wait for it to surface was a trap. You people understood what the situation was, but I don't think it belongs back in the Education Committee. We have had our debate; we know where we are and we have a member that you know how he would have voted, but he is not here. I think that there is only one place for this bill. We should take no further action and under our rules this bill will be reported to the Finance Committee. I urge you very sincerely to vote against the motion of re-referral.

SENATOR DUPONT: I stand somewhat embarrassed because I helped create the mess we are in right now. I apologize to the Senate for the amount of time that we have dedicated to this issue. My only intention, I think, has always been as I've been here, to try and hopefully make the state a better place, and in doing that, make sure the limited resources we do have go where they are needed. I asked and made the tabling motion specifically for the purpose of having an opportunity to look at this further. It was made after I had given my personal guarantee to the Chairman of Education that I would make a motion to take it off the table in a week's time and hopefully insure the votes would be there to take it off the table. There is no movement on my part to kill this bill. At this point in time, my intention was to work on the bill in the rate setting area, to take a good hard look at that, as I had been involved in that area before. I, unfortunately, led a couple of our new members astray and that is the reason for the second vote. I, at this point in time, feel that whatever the Senate feels the appropriate place for it is, I will go along with it. I still would like to have my opportunity to spend some time on it,

but if the Senate feels more comfortable in sending it down to Senate Education, then I'll just remove myself from the issue and let Senate Education deal with it.

SENATOR HOUGH: Senator Dupont, as vice chairman of the Senate Finance, you certainly would agree that you'll have the opportunity to work with the policy and Finance committee, to try to develop the type of criteria that you feel is warranted on this issue?

SENATOR DUPONT: Senator, I would have that opportunity, but I don't know what level the involvement of the Education Committee will have at that point.

SENATOR HOUGH: You have to agree that a lot of the answer to that would be a determination by yourself. You're a member of the committee that it is now hopefully going to be referred to?

SENATOR DUPONT: Fine, Senator, I will do that, whatever you say.

SENATOR HOUNSELL: This bill is very important. I don't believe that the first motion to lay it on the table was an attempt to kill that bill. Senator Hough in his tenacity, and I admire that, sir, has been a little bit incorrect in preparing a motion to table or a motion to recommit. The motion to table can be a motion that allows the disappearance of a bill, never to be heard from again. The committee will have to bring that bill back. Senator Johnson made the motion to table, but then it couldn't be. It was determined that the policy of this bill could be best handled in the Education Committee. I agree with that. I saw us work an hour and a half on this bill and the result was that it was tabled. It was tabled to work on it. This motion that we have before us now is a motion to recommit to the policy committee of this body to work on it. It's an assignment; it's a mandate. I would think that Senator Disnard would be ecstatic that his committee is going to get another look at this. I, at this point, have been watching the procedures of the day and it has been interesting to see procedures come and work, and they have worked. After it is all said and done, we will have correctly taken care of business today. But more important, at this point, and what got us to where we are, is where we are. Where we are is considering the policy of this bill. The Committee on Education has their thinking process in place for this bill. They've heard it won. They know the concerns of the people, who in the first instance put it on the table—that is cost containment. I have all the confidence in the world that that committee can

work a policy change to contain costs. If, at that time and once we send it to finance, I would have no problem with it. I do object to the political maneuvering that has got it to this point, if we do not allow the committee to finish the fine work that they have begun. I just hope everyone can see that what we're talking about here is allowing the Senate Education Committee to finish a good start on a project. Thank you.

SENATOR MCLANE: Senator Disnard, what was the vote for this bill in your committee that last time?

SENATOR DISNARD: 10.

SENATOR MCLANE: Is Senator Dupont a member of the Education Committee?

SENATOR DISNARD: No.

SENATOR JOHNSON: Senator Hounsell, isn't it true that before having a second vote on this issue, that the proponents have already picked up 5 additional votes recorded here, plus what Senator Blaisdell would have done?

SENATOR HOUNSELL: I don't know how it is going to come down at this point, who is going to vote which way.

SENATOR JOHNSON: Isn't it true that the proponents of the amendment have already gained an additional 5 votes over what they had in the first vote?

SENATOR HOUNSELL: Absolutely, the motion to reconsider the vote of the amendment and to vote for it again gained more Senate support to the amendment.

SENATOR JOHNSON: Isn't it possible then, or at least probable, that by recommitting it and coming back with a second report, that we might even be able to make this a unanimous report of the Senate?

SENATOR HOUNSELL: I'm assured that if they'd come back with cost containments that are workable, then they could have that.

SENATOR PRESTON: I'm referring to what Senator Dupont said. We agree to the concern that if we take this bill from the table, and I'm not ashamed of that, I don't think we are in a mess and I'm not

ashamed of the fact that we've allowed reconsideration, because it's evident that several Senators, because of the strategies of the voting, were assigned to an issue that they didn't want to be on. I ask that you oppose the pending motion before us to recommit this back to the committee.

I think that the policy is very clear to what has been addressed here and came out with a Senate amendment. I, frankly, trust Senator Disnard when he's made a commitment to Senator Dupont that cost containment will be in there. The governor has opposed it, but we'll address it. I think Senator Dupont will trust that Senator Disnard will do that and finance as he always will.

This is no maneuver to circumvent your original intention to table against. I will make that clear, that is was a question of honoring those, who because of the strategies used, came from the wrong side of the issue. I don't think it's anyone trying to be politically astute, with all due respect to the thirty pieces of silver, Senator Hough, who was selling ourselves out before some meeting. I request respectfully, that you vote against Senator Johnson's motion and that we let this proceed to another vote to table or my preference, as was before, is to send it to Senate Finance and let the two Senators in conjunction with the Finance Committee address the cost containment and address more importantly a very serious issue that at least concludes the sense that we should address this.

SENATOR ROBERGE: I voted against the amendment. My reason for doing that is I felt that there weren't proper guidelines on cost containment. I would feel much more comfortable if this bill was given further study. I wanted to clarify that and see this go back to committee for a week or whatever.

SENATOR NELSON: Senator Roberge, just to help me along here, would you tell me what you mean by cost containment relative to this particular bill?

SENATOR ROBERGE: I'd like to see some guidelines put on cost as far as certain types of disabilities, very much the same, for instance, as hospitals have. There are certain guidelines as to a certain cost containment on certain illness, perhaps, or something like that. I would like to see that. I was not on the committee that heard this bill, however. I would be more comfortable with knowing more about it perhaps.

SENATOR JOHNSON: I just want to say that, after all is said and done, I don't really care what the vote turns out to be right now. I



think there is enough people in this body here that have already voted in favor of this amendment and it probably isn't going to make a squat what happens.

Senator Hough moved the previous question.

Adopted

Motion Lost. Referred to Finance under Rule #24.

SENATOR BARTLETT: I would like to thank all of you for your patience. I understand that, as we go through here, that we learn the process together and at times the process works to your favor and sometimes it does not. But, the process that we operate under is the same for everybody and I suggest that we all learn the process and I will do my best.

The Committee on Public Affairs will meet immediately following the session in this room. I would like the Executive Committee to meet in my office, as soon as they can do so, after the session.

### ENROLLED BILLS REPORT

HB 23, Relative to halfway houses.

HB 28, Relative to retention schedules for depository libraries.  
Senator John P.H. Chandles for the Committee

Adopted.

### RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, March 5, 1987 at 12:30 p.m.

Adopted

### LATE SESSION

#### Third Reading and Final Passage

SB 34, Relative to the advisory budget control committee and the fiscal committee.

SB 76, Relative to records management and archives.

SB 92, Relative to special elections for city and ward officers.

SB 100, Relative to exemption from regulation of the design, construction, and alteration of certain small structures.

SB 106, Relative to the responsibilities of the commissioner of safety.

SCR 2, Applying to Congress of the United States to call a convention to propose an amendment to protect the lives of the unborn.

SB 25, Establishing that human life begins at conception

SB 66, Relative to the office of reimbursements.

HB 148-FN, Relative to sunset review of Glencliff home for the elderly.

HB 149-FN, Relative to sunset review of Laconia State School and training center.

SB 80, Amending the statutory speed limit on certain highways of the state.

SB 97-FN, Establishing a study committee relative to the feasibility of one-way tolls on part of the turnpike system.

HB 109-FN, Relative to sunset review of coordinator of highway safety.

SB 24, Prohibiting abortions in the third trimester of pregnancy.

Adopted

Senator Dupont moved to adjourn.

Adopted

Adjourned

*Thursday, March 5, 1987*

Senate met at 12:30 p.m.

Senator Podles in the chair.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

LET US PRAY. Lord, Help us to take stock of ourselves during this penitential season, for the Lord gives us our just rewards in due time! Let us have a moment of silence as we remember Dr. Mary Alchison, the former State Director of Public Health. May she rest in peace.

Amen.

Senator Johnson led the Pledge of Allegiance.

#### ANNOUNCEMENT

SENATOR HOUGH: We've sat here a number of days this week and I've been waiting for some kind of announcement from Senator Dupont. I think he's remiss, I wish he would address the Senate.

SENATOR DUPONT: Madam President, I just assumed that with the big smile on my face and the number of chocolate cigars that I've handed out, that the whole world now knows that I have a new baby daughter, but Senator Hough obviously would like to see it in the Senate record. So for the record, Andrea and I have the gift of a little baby girl last Thursday night named Lindsay Beth and I couldn't be happier.

Probably at this time I would say a little bit about the Senate staff. I came in on Monday morning and anyone that's been up to my office will see that proper recognition was given me for this event. There were pink balloons and all sorts of decorations, as well as a big congratulations on the back wall. So, publicly, I will thank them for that because it made the event a little bit more special and certainly the Senate will be hearing about all my trials and tribulations as a father for the first time and there have been all sorts of advice that has been given to me in the past week about the proper care of a child and as well as how to start planning for a college education, which I'm already considering. Thank you, Senator Hough, for giving me the opportunity.

## INTRODUCTION OF GUESTS

## COMMITTEE REPORTS

SB 199, An act relative to branch banking. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: Senate Bill 199 removes from the RSA's dealing with the banking industry, a provision in the law that regulates the branching activity of banks within the state of New Hampshire. It basically deals with the provision that was provided to provide some protection to local banks in terms of who could open branches in their territories. Basically, it's an outdated provision and all of the bankers support the removal of this provision.

SENATOR STEPHEN: Senator Dupont, on the first page, the first line, with the approval of the board, any bank may establish, do you have a problem with putting in New Hampshire banks only?

SENATOR DUPONT: Senator, no I don't. I think that the committee just felt that, because New Hampshire banks are the only ones that are allowed to establish banks in New Hampshire, that that was not needed, but I've been told that there is an amendment and I have no problems with it.

SENATOR STEPHEN: Thank you.

Senator Hounsell offered floor amendment.

SENATOR HOUNSELL: Before you now, I believe, is a floor amendment to SB 199. If there isn't, please notify the Sargeant-At-Arms. This amendment simply changes the first part of the bill and it will now read, "...any bank with its principal office within the State of New Hampshire". I know that we're talking an awful lot about interstate banking, but that isn't a foregone conclusion in a lot of people's mind and until such time that that matter is determined, I believe, that it is appropriate for us to only allow banks that are operating and established within New Hampshire to be included in this provision. That simply is what this floor amendment does.

SENATOR ST. JEAN: Senator, would you believe that the only banks that can be regulated are New Hampshire banks? By inserting New Hampshire, it's a redundant clause into this piece of legislation.

SENATOR HOUNSELL: Senator St. Jean, I do realize that you put a lot time and that you have expertise in this that I do not. However,

I am concerned that we may be sending mixed signals out there that we are, in fact, assuming a conclusion that hasn't transpired. If it is redundant, I don't see the harm in that because I think, in the redundancy, it merely clarifies that we're talking about established New Hampshire banks within the borders of the state.

SENATOR ST. JEAN: Would you believe, Senator Hounsell, that this amendment was just put before me and I really haven't had time to read it. Would you give me a little time to read it, perhaps a couple of days?

SENATOR HOUNSELL: I will tell you this, Senator St. Jean, and you can measure it for what it's worth, the only language change in this is the language change that states that it will be within the state of New Hampshire. I will go so far as to offer you a proposal. I will trade you a couple of days on this one if you trade me a couple of decades on interstate banking.

SENATOR ST. JEAN: That's not a fair one!

SENATOR STEPHEN: Senator St. Jean, if there is no rush to put through the interstate banking bill and if we can wait for that, then we can wait for this. Do you agree?

SENATOR ST. JEAN: Senator Stephen, my comments earlier were in a humorous vein. What occurred this morning in our executive session was not humorous. A bill that we've taken a lot of hours in committee and a bill that has certainly been known by the participants in the executive session, to call at that point what we did this morning rushing a bill flies in the face with everything that has occurred in the Senate and the Senate Banks committee.

SENATOR STEPHEN: Would you believe, Senator St. Jean, that the interstate bill is the most important bill for the people in the State of New Hampshire?

SENATOR ST. JEAN: I believe that, Senator, and you certainly were given ample opportunity over the week to study that and if you had any questions at that point they should have arisen, not this morning at the last hour before our committee.

SENATOR STEPHEN: With the amendments, the late hour amendments that faced us this morning, we should have voted on them without having a chance to go over them with constituents that are deadly against interstate banking?



SENATOR ST. JEAN: Senator, that's not the issue before us today. But I will respond because of the nature of the question. Those amendments were put together yesterday. They were well known. There was nothing very technical about the amendments. One dealt with opt out, one increased provisions of affiliations, another dealt with penalties - three very simple concepts that could have been read in a matter of minutes. If what was done this morning was to get on the front page of the paper, I consider that to be a sorry tactic.

#### Floor Amendment to SB 199-FN

Amend RSA 384-B:2, I as inserted by section 1 of the bill by replacing it with the following:

I. With the approval of the board, any bank with its principal office within the state of New Hampshire may establish and operate one or more branch offices in any town within the state. The board shall not grant any application for a branch office if the dollar volume of the total

Amendment adopted

Senator Blaisdell moved to table the bill

Roll call requested by Senator Charbonneau.

Seconded by Senator Hounsell

Those in favor: Senators Hough, Dupont, Chandler, Disnard, Blaisdell, Bartlett, St. Jean, Delahunty, Preston and Krasker.

Those opposed: Senators Bond, Hounsell, Freese, Roberge, White, Pressly, Nelson, Charbonneau, Johnson, Stephen, Torr.

10 Yeas

11 Nays

Motion fails

Senator Dupont moved to recommit to Committee

SENATOR DUPONT: Obviously we've got ourselves in some controversy relative to SB 199 and the amendment. Being chairman of Banks, I'd like the opportunity to bring the bill back to the committee and address both the amendment and the bill, as there seems to be some question about what the amendment actually does.

SENATOR HOUNSELL: The amendment that passed this body, again, which is now the bill before us for our consideration, merely protects the status quo as regards to banking. It is not a foregone conclusion in many people's mind that interstate banking is going to pass. If you're going to have a bill that refers to banking, it is necessary to make it explicit that we're talking about New Hampshire operated, established banks.

SENATOR BARTLETT: Senator Hounsell, I've been in here for five years and would you believe, that in those five years it has been my intention that I have only been making laws for the state of New Hampshire and I don't think I have to make any thoughts other than that. Would you believe that to be true?

SENATOR HOUNSELL: I would believe that if I didn't know that interstate banking had your support.

SENATOR BARTLETT: Would you believe that this is not an interstate banking bill, in my opinion?

SENATOR HOUNSELL: I would believe that, sir, because you said so.

CHAIR: The question is on SB 199 and I would ask the Senate not to make any reference to the interstate banking bill.

SENATOR BLAISDELL: That's an excellent ruling, Madam President. Senator Hounsell, New Hampshire law regulates New Hampshire banks. Am I right?

SENATOR HOUNSELL: To an extent, I believe you are right.

SENATOR BLAISDELL: Explain what you just said.

SENATOR HOUNSELL: I believe, sir, that there are Federal regulations requiring banking in general that go beyond certain, if not all, state regulations. I think there are, in my mind, federal regulations that enter into it.

SENATOR BLAISDELL: What has that got to do with New Hampshire law that regulates New Hampshire banks.

SENATOR HOUNSELL: Senator Blaisdell, I'm trying to answer this with respect to the Chair's ruling. I would say that it has a lot to do with it.

SENATOR BLAISDELL: You can explain that a little further because you don't know how I'm going to vote on interstate banking, as you said.

SENATOR HOUNSELL: Excuse me sir. I was not referring to Senator Blaisdell when I said I knew how you felt, but there's a previous question after and if I said that, I would like the record to correct that statement.

SENATOR CHARBONNEAU: Senate President, Senators, you know that I'm on the Banking committee. I asked 199 not be held until HB 189 came into our committee. I was refused this because of Senatorial courtesy and we should pass it. It was passed like that and going over it, I read that all it states here is "with the approval of the board, any bank," and that was my concern, any bank. It should be any New Hampshire bank, but I did ask that this be held and it was not held. It was put through committee immediately. Thank you.

SENATOR STEPHEN: Senator Blaisdell, do you think possibly this is a count for the interstate banking bill?

SENATOR PODLES: I just said no interstate banking mentioning here.

SENATOR CHANDLER: When you refer to a New Hampshire bank, do you mean a bank that's located in New Hampshire? Would that include a national bank that was located in New Hampshire, but it's not really a New Hampshire bank.

SENATOR CHARBONNEAU: This amendment applies to both federal and state chartered banks.

SENATOR DUPONT: I move the question to recommit the bill to committee.

Division vote requested by Senator Johnson

13 Yeas

7 Nays

Adopted

SB 140, Relative to Credit Card interest rates charged by banks and other financial institutions. Inexpedient to Legislate. Senator Dupont for the Committee

SENATOR DUPONT: Is it appropriate for me at this time to resign from the Banks Committee Chairmanship?

SENATOR PODLES: No it isn't.

SENATOR DUPONT: SB 140, while the committee applauds the efforts of the sponsor, Senator Stephen, to encourage the lowering of rates on credit cards, we had a great amount of testimony to the contrary that this bill would limit the access to credit cards by our constituents and also would provide for a situation where credit cards would no longer be economical to be provided by a bank. The primary issue is what is the fair rate for credit card rates on bank credit cards in the state. Senator Stephen has chosen this bill to use a federal reserve discount rate which isn't a true market rate for the cost of money.

Second point is the fact that it does nothing to regulate credit cards issued by any entity other than banks. We heard testimony that merchandising outfits, such as Sears, have credit card rates that are in excess of 20% and there really needs to be an effort to look at whether the fairness of this bill, to apply it just to the banking industry, really is appropriate, as well as to the issue of whether this will deny credit cards to certain individuals if it does pass.

SENATOR STEPHEN: Members of the Senate, remember that in 1981 the federal reserve system discount rate of which banks borrow money was at 14%, while the average annual interest rate on bank issued credit cards was 17.8%. That was in 1981. Today the discount rate has dropped to 5.5%. The average credit card interest rate stands at 16 to 18%. This is a rip off to the consumer. You must remember that credit cards interest rates shot up when the prime rate was close to 20% and savers were earning up to 17% on their money market accounts. At that time, the financial institutions agreed and argued that they had to have higher rates because of the cost of money to them was so high that many state legislatures went along. They raised the interest rate ceiling because of the emergency situation at that time. That no longer exists today. The problem is that as interest charged to banks for borrowed money declines, the banks refused to give the little guy a break on high rates charged for credit cards.

I am very happy to have introduced a bill last year that helped prode some banks into reducing their interest rates. Personally, I would like to see more banks drop their interest rates on a voluntary basis.

But until they do, I intend to continue introducing bills to cut the credit interest rate rip off. This Senate may defeat my bill as often as I introduce it, but at least I will allow the people of the state to focus on the exorbitant rates they are forced to pay today.

SENATOR ST. JEAN: Senator Stephen, would this cover out-of-state credit cards?

SENATOR STEPHEN: Senator St. Jean, this deals with interstate credit cards.

SENATOR ST. JEAN: At the hearing, on the percentage, how many credit cards are used from out-of-state banks in-state?

SENATOR STEPHEN: If I remember, they focus on 50% I believe.

SENATOR ST. JEAN: Would this cover such credit cards as Sears, Lechmere and what not, who currently charge upwards of 19-21 percent interest rate?

SENATOR STEPHEN: Senator St. Jean, this bill does not cover those credit cards, but at some point I would like to do that also.

SENATOR ST. JEAN: So what you're telling me is that you're just going to focus on this particular piece of legislation. It's just going to focus on in-state credit cards and have absolutely nothing to do with out-of-state credit cards?

SENATOR STEPHEN: Senator St. Jean, the problem is that people are paying the exorbitant rate and voluntarily I have asked banks to reduce that rate. If they can reduce it, we're all better off in the state.

SENATOR ST. JEAN: For your concern of the little guy, if we pass this legislation, wasn't the testimony that we heard that, individuals in this state, the banks would tighten up their credit policies and the individuals that are marginal, lower income individuals, that do in fact have credit cards, if the policies are tightened up they will not be able to get credit and they may not be able to go out to lunch and to dinner in various restaurants around the state.

SENATOR STEPHEN: Senator St. Jean, I do like to know that I represent the little guy as you do, but the easy way of getting credit cards and making it affordable to people that can't afford it, at least I'm under the impression that, hopefully, the bank can reduce volun-



tarily and show the people of the state that they are willing to give them a fair break. People have no other places to go for credit cards than banks in the state.

SENATOR ST. JEAN: That is not the case. They can get out-of-state credit cards where the interests are anywhere from 10% on upwards of 14 or 15%. Isn't that the case, Senator?

SENATOR STEPHEN: That could be the case if they qualify, Senator St. Jean. I think the banks should show this to the people and also explain, as I said in committee, the interests rates imprinted on a large basis on their credit cards so people can see what they are paying.

SENATOR PRESTON: I would just like to say that a couple of years ago, my first session in the Senate, this was one of my first bills. My bill was more comprehensive than Senator Stephen's. As a neophyte in the Senate, I put a bill in that would have affected every credit card and every bank, being in-state or out-of-state. Senator Stephen, I'm going to vote against you today, but I think you are conveying a very clear and strong message because those with the least are the ones that pay the most under our present system.

It's interesting to me that we are now seeing some ads in the newspapers announcing lower bank rates and, on other issues, no points on mortgages. This may not be very popular with the bankers, Senator Stephen, but I would like to say to you I think you are conveying a very strong message and I was speaking to some bankers the other day. I said if you would advertise at the appropriate time in the papers when bills come out, as some newspapers editorialize when bills are about to come out, they might have better community relations and indicate that they are looking out for the consumer also.

SENATOR HOUNSELL: I rise in support of the committee motion of inexpedient to legislate, and would also just like to note that it's been my observation that credit rates have come down and I do, personally, contribute some of that move down to Senator Stephen's attempt to draw attention to this problem. For that I thank him, but I cannot support your bill, sir.

Question: Inexpedient to Legislate.

Adopted

SB 86-FN-A, Relative to a memorial for Governor Sherman Adams. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This proposed legislation authorizes an appropriation of \$1,000.00 toward a memorial for former Governor Sherman Adams. The plan is to place a bronze plaque in his memory on the top of Mount Washington, close to the geographical marker and the new Sherman Adams summit building.

Sherman Adams' political career started as a Representative in this General Court. He next became Speaker of the House, then a New Hampshire Congressman, on to be Governor of New Hampshire and then assistant to the President of the United States, Dwight D. Eisenhower. Governor Adams was very active and involved in the economic development in environmental concerns of the North country. He helped establish Loon Mountain ski area after his return from Washington.

This bill provides the commissioner of department of administration with the responsibility to purchase and install the plaque. It is supported by the Mount Washington Commission and the Executive Departments. The Senate Development, Recreation committee recommends ought to pass.

SENATOR BLAISDELL: Madam President under the rules of the Senate, Rule 24, this would come to Senate Finance. I would hope that we would waive this, not to send it to Senate Finance, pass it on the floor today. To those of us on the other side of the aisle, we certainly knew Governor Sherman Adams and we know what the type of person he was and certainly I think what they are trying to do in this, we don't have to take a second look and I would hope that the Senate would pass it and get it out of here today.

CHAIR: If the Senate has no objections, we will not send it to Senate Finance.

Adopted. Ordered to Third Reading

SB 232-FN, Relative to the board of barbering and cosmetology. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: The committee on Executive Departments met on this cosmetology bill and all this bill does is give the board a greater ability to enforce the powers that they already have. No one appeared against the bill. At the hearing, the board members stated that the Attorney General, who advises this board, suggests they put this into effect. I guess they are upset with unlicensed beauty parlors.

Adopted. Ordered to Third Reading

Senator Charbonneau took Rule #42

SB 197-FN, Relative to alarm installers. Ought to Pass. Senator Delahanty for the Committee.

SENATOR DELAHUNTY: The purpose of this bill is to establish guidelines, set standards and to impose minimum regulations within the alarm installation industry. This pertains to both burglar and fire alarms. The bill will help to protect the consumer by setting standards and guidelines to help them determine what system is best suited for their needs by requiring the installers to be licensed, assuring the consumers that the installer is competent. It will also help the communities throughout the state because the demand for these installations is growing and many of them are sophisticated and require a certain expertise. In some cases, the consumers have no idea how to evaluate the quality of installation and may end up with shoddy workmanship and a nonfunctional system. Without regulation and authority, what recourse is there? In the case of fire alarms, these are critical to life and safety of building occupants and protection of property. In any event, without regulation, there will continue to exist false alarms because of poor quality installation for both police and fire departments and an increased burden on these departments to improve or approve, inspect and test systems with no recourse against incompetent installers. The establishment of regulations and licensing fees will help to make this self-supporting. It passed the Executive Committee unanimously.

Adopted. Ordered to Third Reading

SB 193, Reinstating the charter of United Energy Systems, Inc. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: Due to a very understandable and human error, the charter for a corporation in the city of Nashua did lapse and, thanks to the efforts of Senator Nelson in working with these people, they have now arranged and this bill would make it possible for this corporation to make the payment of any fees in arrears plus the reinstatement of the fee so that they may have their charter reinstated. The committee report is ought to pass. Thank you very much.

Adopted. Ordered to Third Reading.

SB 145-FN, Relative to the study of the state classification system. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 145 is the companion bill to a bill that we passed last session establishing a task force to look at the State's classification system. The time when personnel was sunsetted and the re-establishment of it last session and working with the sunset committee and with members of the Executive Departments Committee, we felt that it was appropriate at this time to have the classification system reviewed by a professional firm that had experience in that area. So, the bill that you have in front of you is the appropriation that will allow the task force to put out to bid and hire a consultant to review the classification system and make recommendations for its improvement or retention, one of the two.

SENATOR CHANDLER: Senator Dupont, is this quarter of a million dollars for one year or two years?

SENATOR DUPONT: Senator, the consultant would be hired this Spring and the results of their work would come in in the fall. So it's not for a years' work or two years' work, but it is extremely extensive, the amount of work that they are going to have to do to come up with the final report, because they've got to review every agency in State Government and their personnel policies, how many different classifications we have at the present time. I believe there's 1900 some odd different job descriptions, so it's a tremendous amount of work.

SENATOR CHANDLER: Couldn't somebody else do this? Say the sunset group, couldn't they find out this information?

SENATOR DUPONT: Senator, the last time the classification system was looked at was back at its initial start up, back in 1952, and at that time they hired a consultant named Roy Lang to come in and design it, I'm told, so it's a fairly extensive job and it can't be done by someone within the State Government.

SENATOR CHANDLER: Isn't Roy Lang still living?

SENATOR DUPONT: I don't know, that's just a little history I was told. Maybe he'll take the job, Senator, I don't know.

SENATOR NELSON: Is there any time line when this has to be reported back and to whom should this be reported?

SENATOR DUPONT: Senator, it is my understanding, and I don't have the exact language, but it seems to me that the date at which the report has to come back to the legislature for final recommendation is this fall and that's the urgency to get going on this and that they're not going to have enough time to do it. It comes back to the Speaker, Senate President and the Governor.

SENATOR NELSON: I wasn't clear on that. You're not specific in this, when they have to report back to you.

SENATOR DUPONT: According to the requirements built into the language of the bill that we passed last session, not in this bill. This just deals with the appropriation and, in my best recollection, the report is due in this fall.

SENATOR NELSON: Senator Dupont, how did you arrive at \$250,000 for that study?

SENATOR DUPONT: That was based on the work we did looking at other states that have had this type of study done and, basically, that was the number that we arrived at. It's an extensive amount of work; it's not something you can sit down for an afternoon. We're going to have to actually provide office space for the personnel that will be coming into the state, living here while they are working on this study, because it involves every state agency. It involves every job classification's description, even the gentlemen that lives up in Berlin that works for the state that may have a distinct job classification. All that has to be reviewed. So, there are some 1900, I believe, different job classifications. What they are basically going to be doing is, there may be 50 different classifications for the same job out there, they'll be writing job descriptions for each individual job all the way through state government. It's really, really a specific task that's going to take a tremendous amount of time.

To be honest with you, we're told that there may not be a possibility that we can get someone to do it for \$250,000. There was a number of \$450,000 kicked around when we were first talking about it. We're being optimistic.

Adopted. Referred to Finance under Rule #24

SB 123, Amending the ward lines for the city of Portsmouth. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This legislation is pretty much self-explanatory. It's brought about to benefit approximately 200 elderly



residents who reside in the Mogesin Apartments in Portsmouth. They live directly across the street from the voting precinct in ward 2, but are required to vote approximately 3-5 miles away in the voting precinct for ward 5. By moving these boundaries it will enable them to walk across the street and vote. Many of them don't have transportation, as I understand it, and are unable to get to the polls or do so by absentee ballots and would like to participate in the voting day and by acting on this legislation they can go directly across the street and vote in the ward 2 precinct.

Adopted. Ordered to Third Reading.

SB 223-FN, Authorizing a New Hampshire technical institute security force. Ought to Pass with Amendment. Senator Freese for the Committee

SENATOR FREESE: SB 223-FN with amendment starts on page 12 of your calendar today. It provides for the New Hampshire technical institute to organize their own security force. Heretofor, they have hired off-duty police many times from Concord as they are available for part-time security and for one reason or another, it is not working out too well. One particular reason given was because of the growth of the college and the activity that needs more full time surveillance. The security force shall possess general police powers, including the power of arrest. Such powers shall extend only to the confines of the New Hampshire Technical Institute buildings, the roads and the grounds. All employees hired as security shall be in Group I, that's the Group I retirement and benefit package, and the Senate Executive Departments committee is recommending passage.

SENATOR JOHNSON: Senator Freese, this is an FN bill here, but I don't see any actual fiscal impact being established. What is the fiscal impact of this bill?

SENATOR FREESE: I don't know why the FN is on there, very frankly. The fiscal impact is non-eventful and I wouldn't be surprised but what there'd be some savings because of the difference in rates that they would be paying for just a security police as opposed to a police who had been through the technical police standards and training. These security police will only have to have two weeks of that training whereas a full-blown policeman has to go there ten weeks.

SENATOR JOHNSON: The analysis here that I'm looking at says it authorizes the President of the New Hampshire Technical Institute to establish a campus security force. Are you saying there is one there now?

SENATOR FREESE: No, they hire part-time policemen from the surrounding area. In other words, policemen that are off-duty. They aren't always available as they need them. As the technical institute grows, it's more and more difficult to supply the security that they need at the college.

SENATOR JOHNSON: Would you believe that I'm certainly not opposed to a security force; I am concerned that we're being asked to pass a bill, the fiscal impact of which is very much in question. I would feel a lot more comfortable about it if there was, indeed, a note that I would have access to.

SENATOR FREESE: Well, Senator Johnson, I really can't answer that. When I talked to Dr. Larrabee, who's President of the college, he indicated to me that in all probability there'd be no additional cost but a savings.

SENATOR JOHNSON: That's a probability though?

SENATOR FREESE: Yes, that's true. There is no guarantee.

SENATOR DISNARD: Would you believe, Senator, that the Education Committee had a bill pertaining to the post-secondary system this morning and that we could also not get a fiscal impact from them?

SENATOR FREESE: Thank you Senator Disnard.

SENATOR NELSON: I just had a question along the same line as Senator Johnson, sir. Not only do they ask for a force, they ask for a training course also. They asked for training and did they not present any money, budget item to you?

SENATOR FREESE: I think that would come out of their budget at the college and all police security is only a two week training as opposed to the full certified policemen. They go ten weeks. This is a limited police force. When I say force it sounds big, but they aren't. I don't think the numbers are going to amount to more than three or four people.

SENATOR NELSON: Just a point of clarification, Senator. Is it coming out of the technical college budget?

SENATOR FREESE: That's what I understand and that's what I was told.

SENATOR HOUNSELL: Just to clarify in my mind, is this new security force, is this going to be similar to the security forces of Plymouth State College, University of New Hampshire and Keene State College?

SENATOR FREESE: Well, the University of New Hampshire is a little different, but I would say it was similar, but I think there is some difference between those forces. I think they are called another name and I think they may have more police powers than they will at the technical institute.

SENATOR HOUNSELL: Thank you, sir.

SENATOR KRASKER: It's not really a question, just a point of information. If you look at the bill on 16, I think it might be a misprint. The line doesn't really make sense starting with the only instances. I don't understand the sentence.

CHAIR: Senator Freese, can you answer that?

SENATOR FREESE: I can't answer that, it doesn't make sense. I don't get a meaning out of it. I have the original here that went to Legislative Services and it reads exactly the same way. I don't think it's very good English, but what you're referring to here is the only instance where the authority of members of the campus security force shall extend beyond the institute buildings, roads and grounds is where a member of the security force is in hot pursuit of a person or persons who have committed a crime or violation while on institute property. I think if you put those two together that it makes sense.

#### Amendment to SB 223-FN

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Security Force. Amend RSA 188-F by inserting after section 32 the following new subdivision:

#### New Hampshire Technical Institute Security Force

188-F:33 Institute Security Force. The president of the New Hampshire technical institute is authorized to organize a security

force for the purpose of patrolling the institute's buildings, roads, and grounds and providing for general security at the institute. The campus security force shall be under the immediate control of the president of the institute or his designee.

188-F:34 Authority. All security officers of the campus security force shall be ex officio constables and shall possess general police powers, including the power of arrest, but such powers shall extend only to the confines of the New Hampshire technical institute's buildings, roads, and grounds, and only to the period during which such members are on active duty. The only instance when the authority of members of the campus security force shall extend beyond the institute buildings, roads, and grounds is when a member of the security force is in hot pursuit of a person or persons who is believed to have committed a crime or violation while on institute property.

188-F:35 Training.

I. The president of the New Hampshire technical institute shall require that all employees hired as campus security officers shall complete a program of police training meeting standards as established by the New Hampshire police standards and training council pursuant to RSA 188-F:26 and as appropriate to such officers' exercise of limited police powers. Such program shall not exceed 2 weeks in duration.

II. Campus security officers already serving under permanent appointment on June 30, 1987, shall not be required to meet any requirement of paragraph I as a condition of tenure or continued employment.

188-F:36 Retirement Program. All employees hired as security officers shall be group I members of the New Hampshire retirement system.

Amendment Adopted. Referred to Finance under Rule #24

SB 68, Allowing 18 year olds to register to vote at high schools. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: The purpose of this bill is to help encourage and permit eligible students in public and private high schools and vocational schools to register as voters in their city or town at their school. The lowest percentage of register voters, by far, are in the young 18 to 21 year old age bracket. With the statewide promotional effort in cooperation and a combined effort of par-

ents, teachers, politicians and other participants encouraging these youngsters to register; it could be a great success. The idea is to get the young people registered in the hopes that they will participate in the governmental process and exercise their privilege to vote.

SENATOR HOUNSELL: I rise in opposition to the committee report and would like to begin by thanking both the sponsor, Senator Preston, and the Executive Departments for drawing attention to a problem that we should be concerned with and that is having the younger side of our voting populace registered. I do support that endeavor and I thank them for their concern. However, the bill that we have before us, I believe, has some difficulties in that it does seem to mandate to the communities. It does seem to make it more difficult for some of the smaller towns to comply and I think that perhaps there is another way that we can do this and I would be happy to work with the sponsor, Senator Preston, and the committee to work towards trying to get the younger voters registered, but I can't support this bill.

SENATOR BOND: I rise in agreement with Senator Hounsell, that the intent of this is excellent and encouraging our young people to register is extremely important. However, in very small communities where the students may be bused to another community, you will frequently find supervisors of the checklist are not available during the normal school hours to perform their duties as supervisor of the checklist except on election day. It would require them to take time from work to go to a school and that's an inconvenience to them which I don't think balances the intent of this which is to educate our young people to use the democratic process.

SENATOR WHITE: I'm afraid that if you open this up to the schools, the next place will be the work place and it could go on forever. I think that, once you start changing locations, that it would really defeat the purpose of what we're trying to do, which is get people registered, have them go to the Town Office or wherever.

SENATOR DISNARD: May I ask the Chairman of the Executive Departments a question regarding this bill? It is my understanding that the discussion of this bill, Senator Bartlett, concerns with just being addressed by Senators from district one and two will not be a problem because the people on the checklist, the supervisors, will be meeting those hours anyway and one hour of that time will be transferred to the school. Is that correct?



SENATOR BARTLETT: That is correct. The intent of the bill was that they would meet in the normal times and one hour would go to the schools. I'm not sure that is the concern of the people that are opposed to the legislation.

SENATOR BLAISDELL: Senator Bartlett, was there anything in the committee testimony that said you could make it optional whether or not it could go into the schools?

SENATOR BARTLETT: Senator Blaisdell, it is optional today.

Senator Hounsell wishes to be recorded as opposed to amendment.

Senator Podles called for a division vote.

9 Yeas

10 Nays

Amendment fails

Senator Hounsell moved to indefinitely postpone.

SENATOR HOUNSELL: Understanding that indefinite postpone-ment prevents it from coming back next year, not understanding that inexpedient was an appropriate motion, I would just state that it is not my intent to stop discussion on this matter.

Senator Blaisdell moved to lay on the table.

Motion adopted.

SB 57, Relative to change of name and address of a corporation. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: SB 57 came in as a result of our having changed a procedure by which corporations have to supply information to the Secretary of State's office. If you have a change of registered agent and you don't notify the Secretary of State's office you forfeit your charter. In some cases, a corporation, unbeknown to itself, may have had a change of agent and therefor would have automatically forfeited their charter even though they weren't aware of it.

Basically the bill corrects this and reinstates anyone whose charter may have been forfeited after this law was amended last time around.

## Amendment to SB 57

Amend the bill by replacing section 3 with the following:

3 Retroactive Application. This act shall be retroactively applied to June 13, 1985, and any corporation whose charter may have been forfeited under 1985, 339:4 because it had failed for 30 days to appoint and maintain a registered agent in this state, or had failed for 30 days after the change of its registered office or registered agent to file in the office of the secretary of state a statement of the change, shall be retroactively reinstated, and shall continue in existence as if the forfeiture had never occurred.

Amendment adopted. Ordered to Third Reading

SB 69, Enacting the uniform limited partnership act. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: SB 69 with amendment appears on page 13 of today's calendar. What we are doing here today is adopting a revised uniform limited partnership act. The original uniform limited partnership act was promulgated in 1916 to set guidelines defining the rights and liabilities of both limited and general partners. It has been adopted by 45 jurisdictions and is the basis for law regulating partnerships in the United States. New Hampshire is one of those jurisdictions.

The bill allows limited partners to contribute services to the partnership as well as capital and property. A new test to determine whether a limited partner is actually a general partner is adopted. The test looks to whether the limited partner's activities are substantially similar to those of the general partner. It provides a detailed listing of the voting power limited partner may possess without being deemed in control of the business. A good fair exception is created for persons who make contributions to the business enterprises, erroneously believing themselves to be limited partners.

The bill also provides more detailed provisions regarding the addition of partners, distributors or partnership assets, disillusion and winding up in poor limited partnership. The amendment to SB 69 incorporates the 1985 amendments to the uniform partnership act which were inadvertently omitted from the original bill 69. The 1985 amendments expanded the list of activities which limited partner may engage in without becoming liable as a general partner, estab-

lished certain fees and provided that a promise by a limited partner to contribute to the limited partnership is not enforceable unless the promise is in writing and signed by such limited partners. This bill is adopted by states across the United States and it's called uniform because each state adopts, with few exceptions with regards to administration of the bill, the same exact language. That provides less problem on the federal level on income tax returns and so forth. That's why it's called a unified bill. The committee recommends passage and we hope you will vote likewise.

SENATOR NELSON: What is this going to do to the company?

SENATOR FREESE: I think it includes foreign partnerships that are operating in this state. A partnership between two, they would have to be guided by the uniform partnership act.

SENATOR NELSON: Is it making major changes relative to foreign?

SENATOR FREESE: No, I don't like to use the word because it's overdone, but it's really a housekeeping update bringing it into the state of the art of new business procedures.

#### Amendment to SB 69

Amend the bill by replacing all after the enacting clause with the following:

1 Limited Partnerships. Amend RSA by inserting after chapter 304-A the following new chapter:

#### CHAPTER 304-B UNIFORM LIMITED PARTNERSHIP ACT General Provisions

304-B:1 Definitions. As used in this chapter, unless the context otherwise requires:

I. "Certificate of limited partnership" means the certificate referred to in RSA 304-B:8, and the certificate as amended or restated.

II. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

III. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in RSA 304-B:23.

IV. "Foreign limited partnership" means a partnership formed under the laws of any state other than this state and having as partners one or more general partners and one or more limited partners.

V. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

VI. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

VII. "Limited partnership" and "domestic limited partnership" mean a partnership formed by 2 or more persons under the laws of this state and having one or more general partners and one or more limited partners.

VIII. "Partner" means a limited or general partner.

IX. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

X. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

XI. "Person" means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

XII. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

304-B:2 Name. The name of each limited partnership as set forth in its certificate of limited partnership:

I. Shall contain without abbreviation the words "limited partnership";

II. May not contain the name of a limited partner unless (a) it is also the name of a general partner or the corporate name of a corporate general partner, or (b) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

III. May not be the same as, or deceptively similar to, the name of any corporation or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation or limited partnership in this state.

304-B:3 Reservation of Name.

I. The exclusive right to the use of a name may be reserved by:

(a) Any person intending to organize a limited partnership under this chapter and to adopt that name;

(b) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;

(c) Any foreign limited partnership intending to register in this state and adopt that name; and

(d) Any person intending to organize a foreign limited partnership and intending to have it register in this state and adopt that name.

II. The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, he shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may not again reserve the same name until more than 60 days after the expiration of the last 120-day period for which that applicant reserved that name. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

304-B:4 Specified Office and Agent. Each limited partnership shall continuously maintain in this state:

I. An office, which may but need not be a place of its business in this state, at which shall be kept the records required by RSA 304-B:5 to be maintained; and

II. An agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.

#### 304-B:5 Records to be Kept.

I. Each limited partnership shall keep at the office referred to in RSA 304-B:4, I the following:

(a) A current list of the full name and last known business address of each partner, separately identifying the general partners (in alphabetical order) and the limited partners (in alphabetical order);

(b) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;



(c) Copies of the limited partnership's federal, state and local income tax returns and reports, if any, for the 3 most recent years;

(d) Copies of any then effective written partnership agreements and of any financial statements of the limited partnership for the 3 most recent years; and

(e) Unless contained in a written partnership agreement, a writing setting out:

(1) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute;

(2) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

(3) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution; and

(4) Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

II. Records kept under this section are subject to inspection and copying at the reasonable request and at the expense of any partner during ordinary business hours.

304-B:6 Nature of Business. A limited partnership may carry on any business that a partnership without limited partners may carry on, except any association formed under any other statute of this state, or formed under any statute adopted by authority, other than the authority of this state, is not a limited partnership under this chapter, unless such association was a limited partnership in this state prior to the adoption of this chapter.

304-B:7 Business Transactions of Partner with Partnership. Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

### Formation; Certificate of Limited Partnership

#### 304-B:8 Certificate of Limited Partnership.

I. In order to form a limited partnership, a certificate of limited partnership must be executed and filed in the office of the secretary of state. The certificate shall set forth:

(a) The name of the limited partnership;

(b) The address of the office and the name and address of the agent for service of process required to be maintained by RSA 304-B:4;

- (c) The name and the business address of each general partner;
- (d) The latest date upon which the limited partnership is to dissolve; and,
- (e) Any other matters the general partners determine to include therein.

II. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state, together with the certificate required by RSA 421-B:13, I-a(b), or any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

#### 304-B:9 Amendment to Certificate.

I. A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the secretary of state. The certificate shall set forth:

- (a) The name of the limited partnership;
- (b) The date of filing the certificate; and
- (c) The amendment to the certificate.

II. Within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

- (a) The admission of a new partner;
- (b) The withdrawal of a partner; or
- (c) The continuation of the business under RSA 304-B:44 after an event of withdrawal of a general partner.

III. A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

IV. A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

V. No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in paragraph II of this section if the amendment is filed within the 30-day period specified in paragraph II.

VI. A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment.

304-B:10 Cancellation of Certificate. A certificate of limited partnership shall be cancelled upon the dissolution and the commence-

ment of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation shall be filed in the office of the secretary of state and set forth:

- I. The name of the limited partnership;
- II. The date of filing of its certificate of limited partnership;
- III. The reason for filing the certificate of cancellation;
- IV. The effective date (which shall be a date certain) of cancellation if it is not to be effective upon the filing of the certificate; and
- V. Any other information the general partners filing the certificate determine.

#### 304-B:11 Execution of Certificates.

I. Each certificate required by this subdivision to be filed in the office of the secretary of state shall be executed in the following manner:

(a) An original certificate of limited partnership must be signed by all general partners;

(b) A certificate of amendment must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner; and

(c) A certificate of cancellation must be signed by all general partners.

II. Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner must specifically describe the admission. III. The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

304-B:12 Execution by Judicial Act. If a person required by RSA 304-B:11 to execute any certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior court to direct the execution of the certificate. If the court finds that it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, it shall order the secretary of state to record an appropriate certificate.

#### 304-B:13 Filing in Office of Secretary of State.

I. Two signed copies of the certificate of limited partnership and of any certificates of amendment or cancellation (or of any judicial decree of amendment or cancellation) shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite

to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law he shall:

- (a) Endorse on each duplicate original the word "filed" and the day, month and year of the filing thereof;
- (b) File one duplicate original in his office; and
- (c) Return the other duplicate original to the person who filed it or his representative.

II. Upon the filing of a certificate of amendment (or judicial decree of amendment) in the office of the secretary of state, the certificate of limited partnership shall be amended as set forth therein, and upon the effective date of a certificate of cancellation (or a judicial decree thereof), the certificate of limited partnership is cancelled.

304-B:14 Liability for False Statement in Certificate. If any certificate of limited partnership or certificate of amendment or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

I. Any person who executes the certificate, or causes another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

II. Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under RSA 304-B:12.

304-B:15 Scope of Notice. The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership is limited partnership and the persons designated therein as general partners are general partners, but it is not notice of any other fact.

304-B:16 Delivery of Certificates to Limited Partners. Upon the return by the secretary of state pursuant to RSA 304-B:13 of a certificate marked "filed", the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate of amendment or cancellation to each limited partner unless the partnership agreement provides otherwise.

### Limited Partners

#### 304-B:17 Admission of Limited Partners.

##### I. A person becomes a limited partner:

(a) At the time the limited partnership is formed; or

(b) At any later time specified in the records of the limited partnership for becoming a limited partner.

II. After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

(a) In the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; and

(b) In the case of an assignee of a partnership interest of a partner who has the power, as provided in RSA 304-B:42, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

304-B:18 Voting. Subject to RSA 304-B:19, the partnership agreement may grant to all or a specified group of the limited partners the right to vote (on a per capita or other basis) upon any matter.

#### 304-B:19 Liability to Third Parties.

I. Except as provided in paragraph IV, a limited partner is not liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he participates in the control of the business. However, if the limited partner participates in the control of the business, he is liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

II. A limited partner does not participate in the control of the business within the meaning of paragraph I solely by doing one or more of the following:

(a) Being a contractor for or an agent or employee of the limited partnership or of a general partner or being an officer, director, or shareholder of a general partner that is a corporation;

(b) Consulting with and advising a general partner with respect to the business of the limited partnership;

(c) Acting as surety for the limited partnership or guaranteeing or assuming one or more specific obligations of the limited partnership;



(d) Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership;

(e) Requesting or attending a meeting of partners;

(f) Proposing, approving, or disapproving, by voting or otherwise, one or more of the following matters:

(1) The dissolution and winding up of the limited partnership;

(2) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership;

(3) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;

(4) A change in the nature of the business;

(5) The admission or removal of a general partner;

(6) The admission or removal of a limited partner;

(7) A transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners;

(8) An amendment to the partnership agreement or certificate of limited partnership; or

(9) Matters related to the business of the limited partnership not otherwise enumerated in paragraph II, of this section, which the partnership agreement states in writing may be subject to the approval or disapproval of limited partners;

(g) Winding up the limited partnership pursuant to RSA 304-B:46; or

(h) Exercising any right or power permitted to limited partners under this chapter and not specifically enumerated in this paragraph.

III. The enumeration in paragraph II does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the business of the limited partnership.

IV. A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by RSA 304-B:2, II, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

304-B:20 Person Erroneously Believing Himself a Limited Partner.

I. Except as provided in paragraph II, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obliga-

tions by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

(a) Causes an appropriate certificate of limited partnership or certificate of amendment to be executed and filed; or

(b) Withdraws from future equity participation in the enterprise by executing and filing in the office of the secretary of state a certificate declaring withdrawal under this section.

II. A person who makes a contribution of the kind described in paragraph I is liable as a general partner to any third party who transacts business with the enterprise (a) before the person withdraws and an appropriate certificate is filed to show withdrawal, or (b) before an appropriate certificate is filed to show that he is not a general partner, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

304-B:21 Information. Each limited partner has the right to:

I. Inspect and copy any of the partnership records required to be maintained by RSA 304-B:5; and

II. Obtain from the general partners from time to time upon reasonable demand (a) true and full information regarding the state of the business and financial condition of the limited partnership, (b) promptly after becoming available, a copy of the limited partnership's federal, state and local income tax returns for each year, and (c) other information regarding the affairs of the limited partnership as is just and reasonable.

### General Partners

304-B:22 Admission of Additional General Partners. After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted as provided in writing in the partnership agreement or, if the partnership agreement does not provide in writing for the admission of additional general partners, with the written consent of all partners.

304-B:23 Events of Withdrawal. Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

I. The general partner withdraws from the limited partnership as provided in RSA 304-B:32;

II. The general partner ceases to be a member of the limited partnership as provided in RSA 304-B:40;

III. The general partner is removed as a general partner in accordance with the partnership agreement;

IV. Unless otherwise provided in writing in the partnership agreement, the general partner:

(a) Makes an assignment for the benefit of creditors;

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudicated as bankrupt or insolvent;

(d) Files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or rule;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or

(f) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties;

V. Unless otherwise provided in writing in the partnership agreement, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or rule, the proceeding has not been dismissed, or if within 90 days after the appointment without his consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed or within 90 days after the expiration of any such stay, the appointment is not vacated;

VI. In the case of a general partner who is a natural person:

(a) His death; or

(b) The entry of an order by a court of competent jurisdiction adjudicating him incompetent to manage his person or his estate;

VII. In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

VIII. In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

IX. In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

X. In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

### 304-B:24 General Powers and Liabilities.

I. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions and liabilities of a partner in a partnership without limited partners.

II. Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

304-B:25 Contributions by General Partner. A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his participation in the partnership as a limited partner.

304-B:26 Voting. The partnership agreement may grant to all or certain identified general partners the right to vote (on a per capita or any other basis), separately or with all or any class of the limited partners, on any matter.

## Finance

304-B:27 Form of Contribution. The contribution of a partner may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

### 304-B:28 Liability for Contribution.

I. A promise by a limited partner to contribute to the limited partnership is not enforceable unless set out in a writing signed by the limited partner.

II. Except as provided in the partnership agreement, a partner is obligated to the limited partnership to perform any enforceable promise to contribute cash or property or to perform services, even

if he is unable to perform because of death, disability, or any other reason. If a partner does not make the required contribution of property or services, he is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the partnership records required to be kept pursuant to RSA 304-B:5, of the stated contribution that has not been made.

III. Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit or otherwise acts in reliance on that obligation after the partner signs a writing which reflects the obligation and before the amendment or cancellation thereof to reflect the compromise may enforce the original obligation.

304-B:29 Sharing of Profits and Losses. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, profits and losses shall be allocated on the basis of the value as stated in the partnership records required to be kept pursuant to RSA 304-B:5, of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

304-B:30 Sharing of Distributions. Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, distributions shall be made on the basis of the value as stated in the partnership records required to be kept pursuant to RSA 304-B:5, of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

#### Distributions and Withdrawal

304-B:31 Interim Distributions. Except as provided in this subdivision, a partner is entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the partnership agreement.



304-B:32 Withdrawal of General Partner. A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to him.

304-B:33 Withdrawal of Limited Partner. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in writing in the partnership agreement. If the agreement does not specify in writing the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than 6 months' prior written notice to each general partner at his address on the books of the limited partnership at its office in this state.

304-B:34 Distribution Upon Withdrawal. Except as provide in this subdivision, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he is entitled under the partnership agreement and, if not otherwise provided in the agreement, he is entitled to receive, within a reasonable time after withdrawal, the fair value of his interest in the limited partnership as of the date of withdrawal based upon his right to share in distributions from the limited partnership.

304-B:35 Distribution in Kind. Except as provided in writing in the partnership agreement, a partner, regardless of the nature of his contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in writing in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him exceeds a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership.

304-B:36 Right to Distribution. At the time a partner becomes entitled to receive a distribution, he has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

304-B:37 Limitations on Distributions. A partner may not receive a distribution from a limited partnership to the extent that, after

giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, exceed the fair value of the partnership assets.

#### 304-B:38 Liability Upon Return of Contribution.

I. If a partner has received the return of any part of his contribution without violation of the partnership agreement or this chapter, he is liable to the limited partnership for a period of one year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

II. If a partner has received the return of any part of his contribution in violation of the partnership agreement or this chapter, he is liable to the limited partnership for a period of 6 years thereafter for the amount of the contribution wrongfully returned.

III. A partner receives a return of his contribution to the extent that a distribution to him reduces his share of the fair value of the net assets of the limited partnership below the value, as set forth in the partnership records required to be kept pursuant to RSA 304-B:5, of his contribution which has not been distributed to him.

### Assignment of Partnership Interests

304-B:39 Nature of Partnership Interest. A partnership interest is personal property.

304-B:40 Assignment of Partnership Interest. Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a partner ceases to be a partner upon assignment of all his partnership interest.

304-B:41 Rights of Creditor. On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

### 304-B:42 Right of Assignee to Become Limited Partner.

I. An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (a) the assignor gives the assignee that right in accordance with authority described in the partnership agreement, or (b) all other partners consent.

II. An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of his assignor to make and return contributions as provided in RSA 304-B:27-38. However, the assignee is not obligated for liabilities unknown to the assignee at the time he became a limited partner.

III. If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his liability to the limited partnership under RSA 304-B:14 and RSA 304-B:28.

304-B:43 Power of Estate of Deceased or Incompetent Partner. If a partner who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling his estate or administering his property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

## Dissolution

304-B:44 Nonjudicial Dissolution. A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

I. At the time specified in the certificate of limited partnership;

II. Upon the happening of events specified in writing in the partnership agreement;

III. Written consent of all partners;

IV. An event of withdrawal of a general partner, unless at the time there is at least one other general partner and the written provisions of the partnership agreement permit the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of with-

drawal if, within 90 days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired; or

V. Entry of a decree of judicial dissolution under RSA 304-B:45.

304-B:45 Judicial Dissolution. On application by or for a partner, the superior court may decree dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement.

304-B:46 Winding Up. Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs; but the superior court may wind up the limited partnership's affairs upon application of any partner, his legal representative, or assignee.

304-B:47 Distribution of Assets. Upon the winding up of a limited partnership, the assets shall be distributed as follows:

I. To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under RSA 304-B:31 or RSA 304-B:34;

II. Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under RSA 304-B:31 or RSA 304-B:34; and

III. Except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions.

### Foreign Limited Partnerships

304-B:48 Law Governing. Subject to the constitution of this state, (a) the laws of the state under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and (b) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

304-B:49 Registration. Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit

to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

I. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

II. The state and date of its formation;

III. The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint. The agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

IV. A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed under paragraph III or, if appointed, the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

V. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

VI. The name and business address of each general partner; and

VII. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is cancelled or withdrawn.

#### 304-B:50 Issuance of Registration.

I. If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, he shall:

(a) Endorse on the application the word "filed", and the month, day and year of the filing thereof;

(b) File in his office a duplicate original of the application; and

(c) Issue a certificate of registration to transact business in this state.

II. The certificate of registration, together with a duplicate original of the application, shall be returned to the person who filed the application or his representative.

III. The secretary of state shall not accept an application for registration unless accompanied by the certification required by RSA 421-B:13, I-a(b).

304-B:51 Name. A foreign limited partnership may register with the secretary of state under any name, whether or not it is the name



under which it is registered in its state of organization, that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership.

304-B:52 Changes and Amendments. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting such statement.

304-B:53 Cancellation of Registration. A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed and sworn to by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this state.

304-B:54 Transaction of Business Without Registration.

I. A foreign limited partnership transacting business in this state may not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.

II. The failure of a foreign limited partnership to register in this state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

III. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this state without registration.

IV. A foreign limited partnership, by transacting business in this state without registration, appoints the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

304-B:55 Action by Attorney General. The attorney general may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of this subdivision.

#### Derivative Actions

304-B:56 Right of Action. A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if

general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

304-B:57 Proper Plaintiff. In a derivative action, the plaintiff must be a partner at the time of bringing the action and (a) must have been a partner at the time of the transaction of which he complains or (b) his status as a partner must have devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

304-B:58 Pleading. In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

304-B:59 Expenses. If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct him to remit to the limited partnership the remainder of those proceeds received by him.

#### Miscellaneous

304-B:60 Construction and Application. This chapter shall be so applied and construed to effectuate its general purpose to make the law uniform with respect to the subject of this chapter among states enacting it.

304-B:61 Short Title. This chapter may be cited as the Uniform Limited Partnership Act.

304-B:62 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

304-B:63 Rules for Cases Not Provided for in This Chapter. In any case not provided for in this chapter the provisions of the Uniform Partnership Act, RSA 304-A, shall govern.

304-B:64 Fees. The secretary of state shall charge the following fees for filing under this chapter:

I. For a certificate of limited partnership or registration as a foreign limited partnership, \$100.

II. For a certificate of amendment or correction, or a certificate of cancellation, \$25.

III. For a reservation or transfer of reservation of name, \$15.

2 Foreign Limited Partnerships. Amend RSA 305-A:1, I and II to read as follows:

I. Every foreign partnership, [including foreign limited partnerships] desiring to do business within this state, shall pay a registration fee of \$100 and an annual maintenance fee of \$50 to the secretary of state on the first business day of April following the date of registration and on the first business day of April thereafter; provided that a foreign partnership that has received its certificate of authority pursuant to RSA 305-A:2 between December 1 of the preceding year and April 1 shall not be required to pay the maintenance fee during that year.

II. Every foreign partnership, [including foreign limited partnerships] desiring to do business within this state, shall continuously maintain in this state:

(a) a registered office which may or may not be the same as its place of business in the state; and

(b) a registered agent, which agent may be the secretary of state, and its successor or successors in office, or an individual resident in or a corporation authorized to do business, may act as such agent in this state.

3 Reference Change; Registration by Coordination. Amend the introductory paragraph of RSA 421-B:13, I-a, to read as follows:

I-a. Before the secretary of state may accept articles of incorporation for a new corporation under RSA 293-A, an application for a certificate of authority under RSA 293-A, a certificate of limited partnership for a new limited partnership under RSA [305] 305-B, or an application for registration of a foreign partnership under RSA 305-A, the following requirements shall be met:

4 Repeal. The following are repealed:

I. RSA 305, relative to limited partnerships.

II. RSA 305-A:1, V, relative to foreign partnerships.

5 Application.

I. RSA 304-B:27, 28, and 38 apply only to contributions and distributions made after the effective date of this act.

II. RSA 304-B:42 applies only to assignments made after the effective date of this act.

6 Effective Date. This act shall take effect January 1, 1988.

Amendment Adopted. Ordered to Third Reading.

SB 70, Amending article 8 of the uniform commercial code. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 70 basically revises our article 8 of the uniform commercial code to allow and regulate the transfer of securities electronically. Our present statutes deal only when certificates are employed when actually you're transferring a piece of paper from one person to another. This basically deals with the more current version of doing that which is by electronic transfer and it seems that it's certainly a lot of paper to digest, but basically that's the intent of the bill.

Adopted. Ordered to Third Reading.

SB 71, Adopting the uniform fraudulent transfer act. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: This is another bill that deals with the uniform code throughout the United States. This deals with the fraudulent conveyance act and basically deals with the intent when you transfer a piece of property and how it would be dealt with if you did it in a fraudulent manner. Basically it updates our codes, brings them up to date and adds the addition of personal property under this section.

Adopted. Ordered to Third Reading

SB 148, Relative to procedures for distribution of certain federal funds allocated to the state. Inexpedient to Legislate. Senator Dupont for the Committee

SENATOR DUPONT: The Executive Department committee heard SB 148 and basically felt that the bill was inappropriate and not needed at this time. We felt that the present system, of distribution of these funds adequately dealt with the problem and this would just further add some unnecessary layers of approval that really wouldn't enhance the process.

SENATOR PRESTON: Senator Dupont, are you suggesting that any legislative oversight is a further layer of intrusion on the expenditure of federal funds?

SENATOR DUPONT: No, Senator, I wasn't implying that. Basically what I was saying was that the hearing process and the notice

process right now is adequate, that our citizens be aware of these funds coming into the state, and have an opportunity to comment on.

SENATOR PRESTON: Are you aware that these funds would be subject to the same department agency, planning requirements as other federal block grants? That's all this bill does?

SENATOR DUPONT: Senator, we really didn't have a lot of testimony in favor of this bill and really couldn't see where there had been any abuse in the way they would deal with it at the present time.

Senator Preston moved to substitute Ought to Pass.

Motion fails

Committee Report Adopted.

SB 166-FN, Abolishing the sunset review process. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: This bill does exactly what Senator Chandler's intent was and that is to abolish the sunset review process. I'd like to add, however, that being the Chairman of the sunset committee, the joint committee at the present time, that I believe sunset in past years, in the past couple of years anyway, the staff and the committee have done a really good job. We're at the present time reviewing a number of different proposals that would allow this function of government to be transferred but not be under the same constraints that sunset presently is. So, this vote shouldn't be construed as meaning that we don't believe that the legislature ought to have performance oversight as sunset provides, but that it ought to be in a different form.

SENATOR DISNARD: I understand what you're saying and I commend you, but I'm a little nervous. I'm a little nervous, Senator Dupont, that the Senate today might abolish the oversight or the overview committee without something on board to have someone audit, if that's the correct term, or whatever should be done. In that case, I feel I would have to vote against this. Would you mind if a motion was made to table this until the Senate could be assured that something would be in line to take its place to protect the people of the state? Is my question clear.

SENATOR DUPONT: Senator, I think it is clear, but I really wouldn't support a tabling motion. I think that the importance is on us, after we take care of this today, to make sure that something is in



place. I've had the sunset staff draft memos relative to what our options are. Senator White has an excellent bill in that deals with the state auditor, which may be another vehicle. I think we can address it.

SENATOR DISNARD: Is it too late to introduce a bill this year?

SENATOR DUPONT: Senator, through the rules committee we could bring a bill in that would do that. It'd take a vote of the rules committee, but we'd be glad to do that if that was necessary. But we do have some vehicles to do it with already.

SENATOR DISNARD: If that could be handled, why would you object to tabling until that was done to protect the people?

SENATOR DUPONT: Senator, I personally object to tabling, but if there are other members of the Senate that feel comfortable, then they're welcomed to go with the way they feel.

SENATOR HOUNSELL: Senator Dupont, I get a feeling here that I agree with what you're saying, but I'm not sure I agree with how you propose to get there. I, too, have some difficulty with sunset. Would you explain to me a little further how abolishing this is a better means in dealing with the problem at this time.

SENATOR DUPONT: Senator, I suppose there is an opportunity with this bill to deal with it at present time. If we had wanted to amend this bill, we probably could have done it, but I didn't feel and I don't think the committee felt that they had the information necessary to bring something out at this time. It's being worked on. I've had discussions with the Majority Leader in the House about what's going to happen with sunset, so it's not something that's kind of just layed to one side and said, if we have time we'll take care of it. We have been working on it. We just haven't come up with a mechanism yet that will do it. I'm probably not giving you the answer that you're looking for, but I think Senator Chandler deserves to have a bill passed this session and this is the one we should do. How's that for a reason!!

SENATOR KRASKER: Senator Dupont, did you give any consideration to extending the time period for sunset?

SENATOR DUPONT: Senator, it's my understanding in talking with various members of this body that sunset is not looked upon favorably by the Senate and unfortunately your question about ex-

tending it really didn't come up because I felt that, at this time, that we ought to move on to something different, personally, and the committee felt that way. Again, I can't emphasize enough the fact that there is something that needs to be there to perform this function, but not in the sunset form.

SENATOR KRASKER: May I know the vote in your committee?

SENATOR DUPONT: The committee did vote unanimously with the understanding that we were working on some legislation that would effectively do the same process under another form of agency or control.

SENATOR BARTLETT: So that you won't feel that the State of New Hampshire is out there naked, sunset has been in business for about 12 years and has gone through two reviews. We do have already in position a form of auditing called post-legislative audit. That does similar to what sunset does. It does not carry the entire interviews that sunset has been doing in the past. We've been referred to Senator White's bill, establishing an auditor which will be independent of other branches of government. Legislative audit is a part of legislative budget. The sunset is under the control of the joint facilities committee of the Senate and the House and therefore it's not independent. I think they've done their job and they've accomplished it. I've talked to the past heads of sunset to get their views and they feel that sunset has seen its day and accomplished its purpose and they think it's time to move forward. When I've talked to people who have worked in sunset and agree that sunset has served its time, then I find it difficult to continue sunset. I think it's important that we establish some form of some identity in this state where things can be audited, both financially and policy-wise, in one entirety and I think that by abolishing sunset and establishing another audit department or whatever you choose, that will be the best method, but if that does not pass we do have post-audits still in position.

SENATOR NELSON: Senator Chandler, I was interested in your particular reason for having introduced the bill, if you don't mind?

SENATOR CHANDLER: Well, I've introduced it before and I introduced it again. To answer your question, I think sunset has served its purpose, I voted for it originally. Now I think it's causing more work with the departments that it investigates, caused more work for the committees that have to read the reports and I just think it's outlived its usefulness.

SENATOR PRESSLY: The question did come up of the attendance of the committee. I am a member of this committee and, unfortunately, the committee of which I am Chairman was meeting at the same time to exect on this. I do feel very strongly that any organization needs periodic review. I think private industry is a perfect example of how they are very successful in seeing to it that on occasions, and it's usually in a methodical way, they do have outside consultants and they benefit from this. The testimony at the hearing was quite interesting in that the sunset review can document dollar-wise the actual dollar savings that they have through their suggestions over the last 6 years that have come to the people of the State of New Hampshire. It's also very difficult to put a dollar figure on many of the suggestions that are implemented, because they are intangible benefits. More efficiency, it's where you get better value for your tax dollar through this process. I certainly am not 100% certain that this should be the system that should continue, but we need some system in place so that we as legislators have some knowledge that someone with a nonvested interest, someone with expertise, is in fact on a periodic basis reviewing our departments. I consider this healthy. I consider it good for any body, be it private industry, be it public purpose body. Self analysis as far as reviewing your own work is always a positive thing. I do not support the committee report and I would like to see it somehow placed in a position so that it could be reviewed along with the other proposals that we've been told are coming along. It means that when we come to that point, we will have many, many mechanisms to look at and, at that time, determine which one and in what form should be put together and presented to the body.

SENATOR BARTLETT: Senator Pressly, are you aware that in the second round of sunsets that they are finding the same problems that they found in the first set in the majority of cases and that the questions that they raised and the issues that they point out are almost similar to those in which were pointed out in the first go-round? Are you also aware that the department heads have chosen to take the points that they wanted from sunset to put forward into legislation and, if they did not like them, they opposed and they do not seem to appear.

SENATOR PRESSLY: Do I believe that? Yes I do and I also believe along those lines that there is a clear message there. The clear message is that some of the problems continue to exist and how are we to know how to solve them? We do have the department heads, who, of course, we always refer to for their expertise, but we now have a

nonvested interest group that can also advise us and tell us and, of course, the bottom line is this body and the body across the hall and the one farther down the hall that will determine what will be the law but it is up to us to bring in the broad range of expertise to which we can make our decisions.

SENATOR BARTLETT: Would you believe that I'm happy that you did say broad range of expertise, because I think there are what, four members over in sunset? May I rephrase the question - you talk about broad expertise and I think that sunset has three or four members in its committee group over there and that's the broad expertise that we have?

SENATOR PRESSLY: Thank you. When I referred to a range of advice, I consider the sunset process as one unit. I consider the department head as another point of view and I consider every person that brings a point of view, represents something or someone. I look upon the sunset review as a single voice composed of people that do not stand to gain personally from the decisions or the recommendations that they make.

SENATOR BLAISDELL: I rise in support of Senator Dupont's motion and to second the words of Senate President Bartlett. I do this reluctantly really because I think in the last two years of sunset I think the staff, under the present head, has been an excellent staff, has done an excellent job, but I have to agree that sunset, I think, has gone its course. Before I agreed that maybe the sunset committee was mostly driven by the House and had little to do with the State Senate, but I think the time has come and I think we'll have things in place to protect what Senator Pressly and other people have said in this Senate. I think the time has come and I might remind this Senate that we have, over the past few years, that really sunsetted sunset in the late hours of the Senate and I again rise in support of Senator Dupont's motion.

SENATOR WHITE: Several times a bill has been referred to that I am sponsoring and the number of that bill is SB 192 which establishes the office of state auditor, which will have a hearing Friday in the Internal Affairs committee. Basically what that does is it takes the sunset staff and the LBA audit staff and puts them together so that we would have a performance audit and a fiscal audit done by the same group. Sometimes we have the sunset people going in one month and five months later you have the audit team go in. It would bring the two audits together at one point. That bill has not been

heard so we don't know the outcome of it. Therefore, I think I would support a tabling motion of this bill to be sure there is some form of a sunset audit or performance audit of the department. Last time around we did have a sunset bill in that would have lengthened the time under which a department went before it had to come up for sunset review and perhaps that was the way to go. In the meantime, I did put in the audit bill but it has not had a hearing as of today.

SENATOR JOHNSON: I rise to express my concern about the bill that is before us and I'm not a great fan of sunset by itself, but what concerns me though is that its like being aboard ship and opening a sea valve and then deciding to go and look for a life jacket. I think that unless we have something in place that I'm comfortable with it's difficult for me to support the bill that's in front of us.

SENATOR CHANDLER: A study was made last year of the sunset process and the sunset committee. The study committee was made by Price Waterhouse and they issued a report. What they said was somewhat expected, because they were hired by the sunset committee to make a study of the sunset committee. Naturally they favored the sunset committee because they had been hired by the committee to make the report. That flabbergasted me! I thought that if you're going to make a study of anything you should have an impartial group or organization or company make the study and not have the group that is being studied hire somebody to study them. I just wanted to bring that to the attention of the Senators here, that the Price Waterhouse report, in case anybody else read it, was hired by the sunset committee.

SENATOR WHITE: Senator Chandler, would you believe that although it was the sunset staff that hired them, it was through the sunset committee and at the discretion of the Senate President and the Speaker of the House that hired Price Waterhouse?

SENATOR CHANDLER: I didn't realize that Senator White, but if you say it I'll believe it.

Senator Disnard moved to lay SB 166-FN on the table.

Roll call requested by Senator Bartlett.  
Senator Hounsell seconded.

Those in favor: Senators Bond, Freese, Disnard, White, Pressly, Charbonneau, McLane, Johnson.



Those opposed: Senator Hounsell, Hough, Dupont, Chandler, Roberge, Blaisdell, Nelson, Podles, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston, Krasker.

8 Yeas

15 Nays

Motion fails

Committee Report Adopted. Ordered to Third Reading.

### INTRODUCTION OF GUEST

SENATOR DELAHUNTY: Thank you very much Madam President, fellow members of the Senate. It is with great pleasure that I welcome back to your chambers your past President, Former Senator Vesta Roy.

### COMMITTEE REPORTS

SB 224-FN, Relative to licensing estheticians. Ought to Pass. Senator Delahunty for the Committee.

Senator Delahunty moved to recommit.

SENATOR DELAHUNTY: It was a technical error done in the office and therefor the need to recommit this bill to the committee.

Adopted.

SB 50, Relative to damages from construction. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: You will find the amendment on page 11 of the calendar. A group of architects indicated in committee that 98.3% of all claims occurred within the first 5 years of completion. That was why we left the six year term in the bill itself.

SENATOR HOUNSELL: Would you believe that I'm concerned about the 1.7 in the expense of the liability that might be found in that 1.7, that is not covered by the period covered? During the committee hearing on this, was there any discussion presented to you about the deterioration of structural steel and concrete and how long that might take?

SENATOR WHITE: No it wasn't. One building that was brought to the committee's attention was in regards to the Hyatt Regency Balcony that collapsed and that collapsed shortly after occupancy permit was granted. We felt that for the first time it was put in that there was a definite time from when the injuries occurred and I

would assume, but I'm not a lawyer, that if injuries occurred after the six year period, that those injuries could go against the owners of the property at that time.

SENATOR HOUNSELL: Senator would you not agree that the owners may not discover a structural deficiency until well after the six year period and would you feel that they would be liable for an engineering error that resulted in injury?

SENATOR WHITE: The problem comes, as it currently is now, that the building trade, the architects and the engineers, have to carry insurance for their entire life until they die or for the entire life of a corporation if it's indeed, a corporated entity, and that's the problem. Almost 100% of the claims paid, in these types of cases, went to the attorneys. I think that was the problem we had, was that in the long run the people being injured, damaged, weren't getting any of the sums of money anyway, that most of the money was going to the attorneys. We felt that there had to be a certain time as to when the claims occurred and after that they'd have to go against the individual building owner.

SENATOR HOUNSELL: Senator, knowing that you appreciate free enterprise in those decisions, I'll bet it's a risky decision that business people make. I'm sure that you're aware and would you not agree that it's business decision that the policy that you talk about which is commonly referred to as completed operation, it's a choice that businessmen, whether they be a contractor or an engineering firm, should have to make based upon the amount of risk that they'd like to carry?

SENATOR WHITE: If you say so, Senator.

SENATOR NELSON: Senator Hounsell, would you give us an idea of how long this structural concrete example that you said. How long would something like that deteriorate, within what amount of time would it deteriorate?

SENATOR HOUNSELL: Not being an engineer, not being one who understands the mix, but being someone who has been involved in concrete placement, I am certain that the deterioration of concrete is dependent upon the mix, weather conditions and all sorts of different things that may not occur within the period designated in this bill. I'm concerned about hidden defects. I'm also concerned that if we use the Hyatt Regency in Kansas City as an example, that we be reminded that that situation could have gone on for years before

there was a tragedy. I'm concerned about 20 years down the road, if there is a tragedy, that the people who may be injured have no recourse whatsoever.

#### Amendment to SB 50

Amend RSA 508:4-b, I as inserted by section 1 of the bill by replacing it with the following:

I. No action to recover damages for injury to property, real or personal, for an injury to the person, or for bodily injury or wrongful death arising out of any deficiencies in the design, engineering, planning, surveying, materials, labor, construction, supervision of construction, inspection of construction, or observation of construction, of an improvement to any property whether above or below the surface of the ground, or any action for contribution or indemnity for damages sustained on account of such injury may be brought against any person performing or furnishing the design, engineering, planning, surveying, materials, labor, construction, supervision of construction, inspection of construction, or observation of construction of such improvement to real property more than 6 years after substantial completion of such improvement.

SENATOR DUPONT: Madam President, I'd like to offer the floor amendment, numbered 1728B, to be substituted for the committee amendment. The amendment has been distributed and is on the members' desks. I would like to address this amendment.

We had an opportunity to spend some time reviewing this bill this morning and one of the concerns that came through repeatedly was the fact that the six year statute of limitations may be too short for this type of an issue. I have no problems with allowing this bill to go through, but I sincerely believe that the ten years is adequate protection for the type of construction that we're really talking about when we get into this issue. So, I offer the floor amendment and urge the members to support the ten year limitation.

SENATOR HOUNSELL: I rise in opposition to the floor amendment, but in appreciation of Senator Dupont's concern about the time period, I think that the problem that I'm trying to convey to the body is not set in time, but is set in design and that design deficiency may not occur within any set time that we have. I contend that as we struggle with the problem of insurances and tort reform, which is a real problem, that we not forget that there are business decisions that have to be made. Engineers, contractors, architects,

pharmacists, doctors, lawyers, indian chiefs all have to consider risks in the business profession. I'm not saying there isn't a need, but I am very concerned that what we might pass here is going to come back to haunt us in a tragic way. Maybe in eleven years or maybe in thirty years and I just urge that we kill this bill entirely.

SENATOR BARTLETT: Senator Hounsell, would you believe that I share your concern for our fellow man?

SENATOR HOUNSELL: I certainly do.

SENATOR BARTLETT: Would you also believe that if you leave everything to infinity, having been in the insurance business and having been very happy not to be in it now, that you may be jeopardizing those people that you are concerned with because it may be possible that if you leave all to infinity that there may not be any insurance available to protect the same people that you wish to protect.

SENATOR HOUNSELL: I understand that that is a possibility, but I also understand that it's very difficult for us in 1987 to discuss the matters of infinity in a legislative manner. My point is this, I'm afraid that we may be setting the stage for if a tragedy did occur, God I hope one never does, that there will not be recourse for injured people.

SENATOR BARTLETT: By understanding our current laws that we have three years for statute limitations and this extends to ten, that more than triples it. I think that we're probably within the realm of protecting the consumer and our fellow man. Do you not agree?

SENATOR HOUNSELL: I do not agree because I don't think what we're talking about is a statute of limitation upon finding of an injury, but what we're talking about is a point in time where an engineer, an architect, a contractor is no longer responsible for deficiency in their product and that deficiency could very well result in personal injury.

SENATOR WHITE: Senator Hounsell, don't you think if this bill pass it would behoove the owner that was going to take occupancy to be sure that the design and the architectural and engineering was done by a thoroughly qualified person and that the workmanship was up to date before he accepted the job as being completed?

SENATOR HOUNSELL: I think, Senator White, that in the fast pace world of getting bid documents prepared and getting them out to bid that owners put an awful lot of reliance on that stamp. That stamp, I don't believe, is enough reliance and that there has to be some sort of legal protection extended to the public and the owner in the event of a deficiency.

SENATOR WHITE: Do you believe in the phrase of "buyer beware" which basically would take care of the owner when he takes over?

SENATOR HOUNSELL: I don't believe that the catch phrase of "buyer beware" applies to the fast pace world of pouring concrete over steel and not being assured it's in its proper place.

SENATOR BLAISDELL: This is my piece of legislation. I'm the only sponsor of it. I think Senator White has explained it well. I speak against the amendment. I don't think we need the ten years; I think six is enough and I think Senator White has covered it. I realize there are some problems with Senator Hounsell and I take your word Senator Hounsell, but I think this bill gives enough protection to the people of New Hampshire.

Roll call requested by Senator Hounsell.

Seconded by Senator Blaisdell

Those in favor: Senators Bond, Hounsell, Dupont, Chandler, Pressly, Nelson, Charbonneau, Johnson, Torr, Delahunty.

Those opposed: Senators Freese, Hough, Disnard, Roberge, Blaisdell, White, Podles, Stephen, Bartlett, St. Jean, Preston, Krasker.

10 Yeas

12 Nays

Motion fails

Committee Report Amendment Adopted. Ordered to Third Reading.

Senator Hounsell wished to be recorded as opposed.

SB 56, Relative to false impersonation of a law enforcement officer or investigator. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: This bill was introduced by law enforcement people because the law on impersonating an officer at the present time only applies to impersonating a New Hampshire officer. They wanted to have it be a crime to impersonate an officer from



any state, not only New Hampshire, like somebody who comes here and pretends to be an officer from New York. They wanted to make that clear.

The committee offered an amendment which is on page 11 and they adopted the "any state" and the committee also added "any country or political subdivision of a state or a country", making it a crime for anybody to impersonate an officer from anywhere, if they were not legitimate officers.

SENATOR ST. JEAN: Could you tell me, Senator Chandler, if an individual dresses up as a police officer on Halloween how would that affect him?

SENATOR CHANDLER: I don't think it would affect him.

SENATOR ST. JEAN: Under this bill, would that cause any difficulties for that particular individual?

SENATOR CHANDLER: I don't believe so. I think they would realize what the day was or what the night was and they would probably realize that he just had a costume on, like in the Mardi Gras or something like that.

#### Amendment to SB 56

Amend section 1 of the bill by replacing it with the following:

1 False Personation. Amend RSA 104:28-a to read as follows:

104:28-a False Personation. A person is guilty of a misdemeanor if, not being a sheriff, deputy sheriff, state police officer, police officer of any city or town, or any other law enforcement officer or investigator employed by [the state or a municipality within the state] any state, country or political subdivision of a state or country, he purposely pretends to be or assumes to act as such law enforcement officer or investigator, or if he purposely requests any other person to assist him in any matter belonging to the duty of such law enforcement officer or investigator.

Amendment Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Bartlett in chair

## HOUSE MESSAGE

## House Request Concurrence

Mr. President, The House of Representatives has adopted HCR 10 regarding Joint Rules and requests the concurrence of the Honorable Senate.

Senator Hough moved that the rules of the Senate be suspended with the holding of a hearing, the notice of a Committee Report in the Calendar and that the resolution be on Second Reading and open to amendment at the present time.

Senator Bartlett called for a division vote.

15 Yeas

5 Nays

Adopted (2/3rds vote needed)

SENATOR HOUGH: You should have a copy of the House record wherein the Joint Rules had been negotiated with and approved with the members of the House Rules committee as outlined. What we are suggesting today is that we adopt the Joint Rules as had been agreed and passed by the House Resolution that is before us.

I will tell you briefly that the Rules committee of both the Senate Rules committee and meeting with the members of the House in Joint Rules had spent all of January and February discussing and negotiating the various dates. The dates as are incorporated into the rules, we can go over on an individual basis, but you have all received in your mail from the Senate President's office a list that establishes the rules. You received that at home. The basic points to be concerned with is that the House position was that they wished to have a motion of re-referral. We agreed to a re-referral with a negotiated exception that it could not be used until after the 7th legislative day. That was a concession on the House's part. We insisted that our interim study motion be allowed to stand where they had tried to remove interim study. These rules as you have them now include the re-referral motion after the 7th day and it maintains the Senate's position on the interim motion.

SENATOR WHITE: Is that explanation of Joint Rules '85 for '87?

SENATOR HOUGH: That document that I just handed you is what we mailed to every member of the Senate and it outlines the days. Everyone should be familiar with it.

SENATOR DISNARD: Senator Hough, you very eloquently and with very few words indicated what the Senate gained. Never having experience in negotiations, I'm interested in what we lost, that the committee won?

SENATOR HOUGH: I think the main point of contention other than coming to an agreement on the days, and we have already, both houses structured their activity out in the future in this year based on these dates. There was general agreement on the dates. I can think of no instance where the Senate position did not prevail on the days. The House gave on two or three days. Aside from the days, the House wanted re-referral as a motion to allow a body to keep a bill in the possession of a committee to be reported by the 5th day in the second year session if they wished to continue to work on it and that would include having to redraft, as has been the experience. We agreed to that. We agreed to that with one exception. I suppose you'd have to say that we had to give ground on that item, that's what the House wanted and we didn't have it. We said fine with the exception that that motion couldn't be used until after the 7th legislative day, in effect meaning as we get into a crunch if they are subject to worthy consideration, they can be re-referred to the committee, worked on and brought out next year, but you can't start doing that on the first day of the session.

SENATOR DISNARD: Some of the committees are finding that constituents are unable to receive bills that are going to be heard on Monday, as an example, until that day. Other words, constituents out in the field, the last few weeks, are unable to obtain bills until the day or the day before a hearing. Is that as a result of these Joint Rules?

SENATOR HOUGH: No, no it is not. That, unfortunately, and as we get closer to the end, it gets more difficult. It's an administrative problem which the clerk's office is trying to address.

SENATOR WHITE: Senator Hough, I guess I'm confused. I had thought that we would be receiving from the House the budget on the 2nd of April, but if I read what you have and what's in this House record, we will not be receiving the budget and the money bills until April 9th. Is that correct?

SENATOR HOUGH: Final action on the budgets will be April 9th. In this instance, the answer to the question is House action.

SENATOR WHITE: Then when it comes to the Senate action that would be on April 30th?

SENATOR HOUGH: May 5th. Final action on money bills in the second body is April 30th.

SENATOR WHITE: We have before us the Joint Rules. I had voiced my displeasure on Tuesday when it appeared that we'd be taking up Joint Rules, that it wasn't listed in the calendar - here we are on Thursday and it's still not listed in the calendar - that this important item is being taken up, so that we'd have before us on the day that we're acting on it, the copies of Joint Rules. I think this is one of the most important items that we'll be dealing with. As I look at it, I think the Senate is very much shortchanged. My answer to Senator Disnard would be, yes, it is because of Joint Rules that the people are not getting the bills. Day after day, I go to testify on my bills, I can't even get my bills until the day before. We've made it so that crossover is March 19th. The unfortunate thing is that we made sign-off February 17th and then many members of the Senate went on vacation the following week. That, Senator Disnard, I feel should have been the week that we were all here to work on the Senate bills. But because we have pushed up the crossover date to March 19th, which is in the Joint Rules, we have to rush every day to get the bills so we can get them out and get them over to the House so that they can act on them. Unfortunately, since the House has an earlier sign-off day, their bills were put through legislative services before the Senate bills were, so that we had to wait for all the House bills to get out before the Senate bills were even acted on down in legislative services. I voiced my displeasure that the hearings were not publicized in regards to Joint Rules. I did attend one. I found out about it Wednesday night and the meeting was going to be on Thursday morning at 8:30. I did go to that one. I was the only person that was there. There wasn't any person taking notes at the meeting. At that point, I said that the Senate was being very much shortchanged in that the budget and all the money bills would be coming into the Senate on April 9th and, in effect, we'd have three weeks to act on the money bills and the budget. I was told that it really wasn't any problem, but it was my impression when I left that Joint Rules meeting that we were going to move it back up to April 2nd, but I see that that has not happened and still the Senate is going to be quite compressed for time between April 9th and the money bills have to be out on the 30th. Not the budget bill, but all the money bills have to be out on the 30th. History shows that the appropriations committee holds all of their bills in the House until they actu-

ally get the budget down to the final analysis of how much money they are going to have to spend. Then they act on the big appropriations bills. Therefor those bills will not be acted on the House until April 9th. After that they will come to the Senate and we will have five days of posting in the calendar to go to a policy committee. The policy committees will then meet day and night to try and take care of all the money bills that come into the policy committee and we will have floor action in the Senate on those money bills and then they will be referred to Finance, and we will have three weeks to accomplish two floor actions on those bills plus the budget. I'm very pleased that I'm not on Finance this time because I just don't see the time that will be available to be spent on the bills that are coming in. I was told that the budget is no problem because they've had the hearing. Two years ago we had joint hearings with the House when they had the original departmental hearings so, it's no different than it was two years ago. However, after the budget passes the House, generally you do have public hearings because that will be the first time that the budget, per se, is open for review to the public to have any input into the budget because it is the amendment that comes out after the House acts on it. We will have three weeks for the money bills, regardless of the budget, leave the budget to one side, three weeks to go through the policy committee and then Finance. I feel that we are compressing too much to get it done by that point. I would hope that we could extend some of these deadlines that the Senate has. What is the great rush? I have sat in this entire week from 9 in the morning until 5 at night, either in session or in committee. We hear a bill, we act on it, we rush to get it out of committee to get it on the floor. I think that we are having terrible legislation go through. One of the bills that we had as I reported out on Tuesday, referred to the wrong RSA and I think the time has come to slow down the process. We're on a treadmill, and I feel that it's a result of Joint Rules. Back in the fall, Senator Preston, Senator Freese and myself met in regards to Joint Rules. We felt that what we should do is have an early sign-off date. That was why we had the new Senate and the old Senate come in on November 6th, so that we could point out to the new Senators that we should, at that point, if they had bills to be filed that would give them two months, if we had a sign-off time that first Wednesday in January to come in and file legislation. We are in a mode of annual sessions and any bill that we didn't get put in on the first could be put in the second year. I feel that by extending the sign-off until February 17th, we have greatly hindered the operations of this particular Senate session and I had also suggested that perhaps at the time they brought in these Joint Rules they look at what would happen in the 1989 session so that it



wouldn't happen again. People accuse some of us of not trying to make annual sessions work. This series of Joint Rules is a prime example of trying not to make annual sessions work, because they are terrible. I will vote against them.

SENATOR CHANDLER: I will admit that I put in too many bills this session. I would just as soon adopt a rule that in the 1988 session, no bills be introduced at all! Somebody said that we haven't got the printed bills, every bill that I put in, the printed version, I haven't seen it until I've gone up to the hearings. At the hearings, the bills are laid on the table and I take a copy of it and that's my bill. I haven't seen it before except in the version when I signed off. But I didn't really see the printed bill until the day of the hearing. I'm particularly upset about this whole business and mainly because Senator Disnard was very cooperative with me and very nice to me and he set a hearing for one of my bills, at my request, for March 25 and I sent out notices to about 100 people that the hearing on that bill would be held on March 25. Then sometime later I got this schedule here and I found out that the cut-off date would be March 19. I didn't feel like writing to all these 100 people again to have them change their calendar and that it was going to be a different day and so on and so on. So, what will happen is that we'll be having a hearing on March 25 on a dead bill because, by that time, we'll go by March 19th, there'll be a dead bill and we'll probably have a few people come in here to testify on the bill. I had a couple of alternatives. I could have tried to set the hearing on March 18th and that would have necessitated everybody being informed of it or then, I thought, maybe we could have the hearing and then have the bill referred to the '88 session. But they say no, you can't do that. You can have the hearing, but it'll be a hearing on a dead bill. I'm kind of upset about that because that was almost the most important bill that I put in in the whole session. That's why I went to the trouble sending out notices. I would like to see some change made so that I'd be able to have a hearing on a live bill instead of a hearing on a dead bill.

SENATOR BLAISDELL: Senator Disnard, since you've been so nice to Senator Chandler, could you by any chance reschedule that bill before the 25th and get the notices out so Senator Chandler can get to his people?

SENATOR DISNARD: I don't know if it's up to me to send the notices out. Technically, I think Senator Chandler is very gracious and I think Senator Chandler also wants to wait until after his district meeting on the 19th.

SENATOR JOHNSON: Senator White has expressed a number of the feelings that I have been experiencing in recent weeks. There is almost a frenetic atmosphere that I feel and experience in how we're handling legislation, not only on the floor of the Senate, but in the committees of which I'm a member. I've heard other Senators express similar feelings and at the same time express reservations about anything that could be done to slow down the process. I think there is indeed an opportunity to slow down the frenetic pace of what's happening here in the legislature, particularly the Senate. I think we have that opportunity now in regards to Joint Rules and I'm not going to be able support the Joint Rules as currently proposed.

SENATOR DUPONT: I stand here a little bit amazed today. I stood on this floor a while back and urged all my colleagues in the Senate to come forward with me with any information they had that they felt about either the Senate's operating rules or the joint rules and yet nobody came forward. These have been out there; they have been discussed; it's been a long, long process with the House to try and finally get us to the point where we felt we had in the rules what we were looking for. Senator White, and I commend Senator White on one hand for taking the time to pay attention to the rules. On the other hand, we held the hearings so Senator White could come and express her displeasure with the rules and she didn't show up. The opportunity for this Senate to react to these rules was present and it's a little bit discouraging when you go through what the rules committee has gone through to try and get joint rules and all we're hearing is some complaining about the Senate rules which we adopted. Everyone in this body already voted on the Senate rules. I think it's time we act, get these rules passed and stop the complaining and get down to the work that's ahead of us.

SENATOR HOUNSELL: Very briefly, I would just like to state that I happen to like the fast pace we're in because I see summer coming, I see June coming and I'm looking forward to being out of here.

Senator Hough offered floor amendment.

SENATOR HOUGH: Now I offer an amendment that you have on your desk relative to Rule 4 (A) and in the second line, what this amendment does is it adds inexpedient to legislate which was the intent of HCR 10 when it was passed by the House, but it was inadvertently omitted. This amendment is agreeable with the House.

They understand it and they understand that we will amend HCR and they have indicated that they will accept our amended report. I offer that amendment.

SENATOR NELSON: I could not hear what Senator Hough said and I would just like to ask if we could have the gist of that?

SENATOR HOUGH: I said that this amendment adds inexpedient to legislate to the rule and that was the intent of the House when they passed HCR 10 and it was inadvertently omitted, so we're correcting it and they are aware of it.

SENATOR NELSON: Thank you.

SENATOR PRESSLY: A point of clarification, is this the floor amendment that was on our desk last session?

CHAIR: You have before you a floor amendment.

SENATOR PRESSLY: May I read the language just for a clarification? Where it says "HCR 10 (a) No bill the subject matter of which has been indefinitely postponed or made inexpedient to legislate in either body" and you're adding inexpedient to legislate. May I ask a question then? I would like to phrase it with a statement and then my question, if I may sir.

CHAIR: You have your choice, do you wish to make a statement or a question?

SENATOR PRESSLY: I would like to state the reason I'm going to ask a question. I support this amendment and I support the effort that has gone into this totally and completely. However, I have a question. I do believe that there are some times when an issue could come back with a small change, a significant change, but at least a change that does change it enough to bring it back and change the concept of it. My question of this is who or what body will determine when and if the change is sufficient enough to declare it a new idea, even if the topic is one that has been presented before?

SENATOR HOUGH: The Chair ultimately makes the determination in either body and it's very specific and if you just give me a minute I'll find it and I'll show you. 24 A.1. "Bills and resolutions substantially similar to bills and resolutions referred for interim study in the first-year session shall not be reintroduced or acted upon during the second-year session. The presiding officer shall de-

termine whether any bill or resolution introduced into the second-year session is substantially similar to a bill or resolution referred for interim study in the first-year session.”

SENATOR PRESSLY: The presiding officer. Okay.

SENATOR HOUGH: That's the answer, but that's where you find it also.

SENATOR PRESSLY: At what point in your amendment are you going to place the interim study?

SENATOR HOUGH: The amendment is as you have it before you. The amendment changes rule 4a (a) as adopted in HCR 10 and includes inexpedient to legislate. Right now as the document came to the House it didn't include inexpedient, we're adding it. That's the point.

SENATOR WHITE: The question I was going to ask Senator Dupont was, would you believe that I arrived about ten minutes late to the hearing and the people had already gone. I did come to Concord for the sole purpose of attending the Senate rules. However, when I got there, there wasn't anyone in the committee. I did make an attempt to get there and no one was there.

#### Floor Amendment to HCR 10

Amend Joint Rule 4-A(a) by replacing it with the following:

(a) No bill the subject matter of which has been indefinitely postponed or made inexpedient to legislate in either body in the first-year session shall be admitted into the second-year session whether as a bill, an amendment, or committee of conference report or in any other manner; and

Amendment Adopted

Roll call requested by Senator White.  
Seconded by Senator Charbonneau

Those in favor: Senators Bond, Hounsell, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, Pressly, Nelson, McLane, Poldes, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston, Krasker.

Those opposed: Senators White, Charbonneau, Johnson.

20 Yeas

3 Nays

Adopted. Ordered to Third Reading.

SB 102-FN, An act establishing a study committee to assess the need for enterprise zones. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: The word enterprise zones is not new to this body. It is an idea that's been discussed and debated before. I've been lead to believe that a similar study committee had been formed in the past, but really had not had the opportunity to meet. This is reestablishing this committee with the effort that the idea of enterprise zones, which is being debated nationally, will once again have an opportunity to be considered for the State of New Hampshire. I think that many of us feel that this concept is of value and that it deserves the study and the time to see in what form it might be helpful to the State of New Hampshire. The committee voted unanimously that it ought to pass. There was an understanding in the committee that there might be an amendment from Senator Bond on the floor that would merely change the composition of the committee. We hope that the whole concept will meet with your approval. Thank you.

SENATOR BOND: You have on your desk now an amendment to SB 102 which adds the director of economic development, department of resources and economic development, or his designee to the membership of the committee and also shortens up the time span for the committee to do its study to October 1st, so that legislation could be considered in the next session. This is related to HB 390 from the previous session which dealt with enterprise zones and which was sent to interim study by the Senate, but was not studied. I urge your support.

#### Amendment to SB 102-FN

Amend section 2 of the bill by inserting after paragraph V the following new paragraph:

VI. The director of economic development, department of resources and economic development, or his designee.

Amend section 4 of the bill by replacing it with the following:



4 Report. The committee shall present a report together with any proposed legislation on or before October 1, 1987, to the speaker of the house and the president of the senate.

Floor amendment adopted. Ordered to Third Reading.

SB 47-FN-A, An act establishing an industrial agent for Sullivan and Cheshire counties and making an appropriation therefor. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: Sullivan and Cheshire county do have unique and special situations that might desire the special attention of an industrial agent within the department. There was much discussion about this, many people came to the hearings, all were in support. The department did feel that this would be helpful and beneficial and it was the unanimous feeling of the committee that this bill ought to pass with amendment. The language in the amendment is primarily to ensure that the language is gender free so that the agent that would be selected, there would be the opportunity and encouragement that that person be from both sexes.

SENATOR NELSON: I would ask Senator Pressly if this is a new position that they are establishing, who's going to pay for the rent? What is the rent cost on this or where are they going to put them? Is it going to cost any money to house them?

SENATOR PRESSLY: The agent in question would be a part of the department that covers this function which I believe is called Economic Development. The department does industrial development of the economic development department. They seem quite pleased, they do acknowledge that they would like to have someone that especially addresses the concerns of these two counties. We did ask the question, would this then free other agents up to do other work? They felt, yes, it would. Primarily, the special concerns of these two counties have really not been explored.

SENATOR PODLES: Senator Pressly, why wouldn't we have an industrial agent for Hillsborough County?

SENATOR PRESSLY: We do. They have a full staff of agents and primarily the other counties seem to have more similar concerns and these two counties do seem unique and special in their areas of concern. All of the other counties are being serviced. The department has not divided it up by county. In fact we talked with them about that thinking that this might be the beginning of such an approach.

This, in no way, will take away from any other county. There are agents within the department that are able to answer questions and serve the people and officials from those counties.

SENATOR PODLES: Would you tell us what the appropriation is on this bill?

SENATOR PRESSLY: The appropriation is, in the first year, \$35,062 and in 1989, \$36,946. It is basically adding a new position.

SENATOR PODLES: A new position with the fringe benefits?

SENATOR PRESSLY: That is my understanding that that is reflected in the salary. That is true.

SENATOR DUPONT: Senator Pressly, what is the total number of agents that they have within this office to do industrial development state wide?

SENATOR PRESSLY: We did ask that and I don't have my notes here. I'd be happy to defer to another committee member.

SENATOR DUPONT: Are you also aware that we have an agent that's dedicated to the northern two counties?

SENATOR PRESSLY: Yes, we did ask that question and so we felt that there had already been a precedent set that there is a special industrial agent for the northern section and therefor it seemed logical and appropriate that these two counties had band together, a feeling that their needs were similar and parallel and that it made good sense that one agent could service the needs compatible with those two counties.

SENATOR DUPONT: I'm a little concerned that we don't know whether or not the other people in the agency are so busy that they couldn't dedicate one of the existing staff to this, rather than appropriate new money. Furthermore, I guess I'd be a little concerned with the idea of why don't we just designate one person within the agency to each county yet, because I'm starting to say maybe Stratford County should have one and Jack is saying Merrimack and somebody could make a case for Hillsborough. I'm not sure this is the best use of the resource within the department and you said that the two counties are unique and special and I could probably debate that. I seem to think that I like the Keene area and I like Cheshire County and Salisbury County. I haven't spent a whole lot of time up

there, but it's a beautiful place, too. I'm really uncomfortable with supporting this based on the fact with one, I don't know how many people will be dedicated to industrial development, and whether or not we can handle it within the department without getting specific legislation and do this.

SENATOR PRESSLY: Thank you, I appreciate your concerns and I would like you to know that we did ask the same questions. When I say unique and special I mean that their problems are unique and possibly special to that area. The industrial development person is also set up to attract industry there. Many of the other counties and the agents that are now part of this department are currently responding to questions, responding to inquiries, people that would like to come in, people that are now ready, willing and able to implement viable industry. These two counties, on the other hand, are in a position where they need help to attract. The questions that are coming to the department are not directed to those two counties. So, this agent would be set up to primarily do it almost in reverse. Instead of responding to questions from the outside as we'd like to go to this area to implement an industry, they will do it in reverse where these two counties will say all right, what do we have here, what are our needs and then try to attract business to those counties. So, when I said unique and special, I meant that possibly their problems are geographic, their population problems are similar and uniquely special to them that would justify one person being able to study that region as a unit because of their similarities.

SENATOR WHITE: I rise in support of the committee report of ought to pass. I think it's nice finally to get some money over in the western parts so perhaps we can get into the expansion in the industrial development that the rest of the state has and I commend Senator Disnard, Senator Blaisdell for putting the bill in.

SENATOR DISNARD: Senator Dupont, I'm very surprised that the Chairman of the Banking Committee is really not aware that in our section 1,000 jobs have or will be lost by April by the closing of many plants. I'm very disappointed. I'm also disappointed that the Chairman of a committee hearing another committee chairman's report that the committee voted unanimously. Also hearing that chairman indicate that many people appeared also, in addition, John Burns, Director of that agency, strongly supports this. He indicated in testimony through correspondence that this is the second poorest area in the state. I would like to call to your attention that the Sullivan County does support an industrial agent. We're not asking for

something that we're not also trying to assist. We need area support over there. I think there are two people in the state. Testimony from the state indicated that they did not have enough people to serve our needs. They recognize the problem and I'm jealous that your area does not have a loss of all these jobs and I hope you don't. But also, I hope you understand we're in the second poorest county and we need assistance. I hope you might consider your vote to vote for that.

SENATOR DUPONT: Senator, to respond to your question, I just question the use of resources that we have in the state and I think that's a legitimate question for me as a representative of my district to ask. Strafford County hasn't always been prosperous, as it is in the present day, and we didn't come in and ask for specific state resources to help us. We kind of picked ourselves up by our own boot straps and got going with it and things are going great today. If Sullivan and Cheshire really have this need and the state doesn't feel that they can recognize that need with their additional resources, I certainly have sympathy for those people who are out of work over there.

SENATOR DISNARD: Thank you. Would you believe that you did not hear a question which I thought I phrased? Would you believe that the people in Sullivan County and northern parts of Cheshire are attempting to pull themselves up by the boot straps? They need this. The division, if the state indicates that they don't have the staff to help them and they really need it and recognize that.

#### Amendment to SB 47-FN-A

Amend RSA 12-A:13-a as inserted by section 1 of the bill by replacing it with the following:

12-A:13-a Industrial Agent for Sullivan and Cheshire Counties. A special position shall be provided, in the office of industrial development of the division of economic development of the department of resources and economic development, to be known as area industrial agent for the counties of Sullivan and Cheshire. The commissioner of the department of resources and economic development shall, subject to the personnel laws of the state, employ such area industrial agent for said counties, who shall be fully qualified by specific training and experience and who shall work under the supervision of the director of the industrial development office. The agent shall maintain his residence in one of said 2 counties. The agent's duties shall

be primarily concerned with, but not limited to, assisting the political subdivisions of the state, regional development organizations or groups, and individuals to maintain and expand existing industries and to encourage, assist, and aid new industries to establish operations in Sullivan and Cheshire counties, and the agent's efforts shall be directed to the economic development of said 2 counties.

Amendment adopted. Referred to Finance under Rule #24.

SB 52, An act relative to modifying planning board procedures on plats. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: After conducting a public hearing of which there were many people who came to speak; primarily the testimony was in opposition to this bill. It was recognized that in many, many times, the process is frustrating and that applicants before planning boards do receive the frustrations in delays. However, it was pointed out that they do have a recourse should that happen. It was acknowledged that this may be a problem and that possibly it could be approached at a future time. However, the language in this legislation could have some very significant and possibly harmful effects because of the extremeness of it. This legislation would, in fact, place specific time frames on your planning boards. In many cases this is completely impossible for them to meet those deadlines, no matter how hard they try. It is not clear at what point that even all the information is in before the board to make a judgement. The possible penalty, and they referred to it as a penalty as it was explained to us, that if a planning board does not take action within this time frame, the penalty would be an automatic approval. Which would mean that the city or the town would automatically have to take whatever proposal was before the planning board if they did not have time in which to act. We felt this could be extremely alarming and injurious. We felt that we could not support this. At the same time, there were some problems identified and it was the hope of the committee that the people who do have the concerns could sit down and come up with a different approach to solving the problems. But that by gutting the planning board authority and also the authority of any local municipality to govern itself, would be very, very damaged by this type of language. Therefor the committee did unanimously report it out inexpedient to legislate.

Adopted.



SB 53, An act relative to appeals of decisions made by local land use boards. Inexpedient to Legislate. Senator Johnson for the Committee.

SENATOR JOHNSON: SB 53 essentially would limit the local land use board presenting evidence based upon the specific written reasons and findings it gave for its disapproval. One of the interesting things about the testimony on this bill is that we actually had three lawyers testifying. One of the lawyers was a lobbyist for New Hampshire Home Builders Association, one was a lobbyist for the Municipal Association, another was a lawyer but also a member of the Pembroke Planning Board, so we had a lot of legal testimony. I have obtained some additional confirmation of some of the things that were said that day. One of the points made by the lawyer for the Municipal Association is that this is in conflict with existing law. He talks about that the bill would apply to any appeal or court review, which presumably includes a motion for a rehearing under the RSA 677:3. The supreme court has said that the purpose of the rehearing process is to afford a board an opportunity to correct its own mistakes. If a board was limited only to considerations of evidence, on the reasons for disapproval it gave in its first decision, this opportunity for correction of errors would no longer exist. He talks further about other conflicts in regard to whether or not applied only to court appeals and he points out that the standard for court review is already stated in RSA 677:6 and I quote, "the order or decision of appeal from shall not be set aside or vacated except for errors of law unless the court is persuaded by the balance of probabilities on the evidence before it, that said order or decision is unreasonable." There's more to this, but the final part really comes down to whether or not the bill is necessary or unnecessary. I think that after the committee heard the testimony, we really came to the conclusion that neither the sponsor nor anyone else has demonstrated a real need for this bill and therefor the committee recommends inexpedient to legislate.

Adopted.

SB 62, An act relative to counting absentee ballots in cities and towns which use voting machines. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill would permit the moderators or the authority within any municipality that counts their ballots by machine to have the ability to count the absentee ballots two hours

prior to the close of the polls. This would help towns such as my own and Senator Nelson's. It has the stamp of approval by the Secretary of State. In fact, he was the one that suggested the two hour time limit. This will expedite the counting of the ballots after an election enormously. It will help the workers at the polls to conclude their business in a more efficient way. The committee felt that this seemed quite reasonable, that all of the usual safeguards that one would expect within a polling place are there to insure that everything is done appropriately and carefully. There would be no announcement of the absentee votes until after the polls would close. It's merely a mechanism to help the people at the polls to get the results in a more expeditious manner.

Adopted. Ordered to Third Reading.

SB 73, An act to revive the charter of the First Congregational Church of Salem. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: SB 73 is similar to a bill we had earlier this day. It simply permits, upon its satisfaction of certain conditions, the revival of the charter of the First Congregational Church of Salem retroactive to April 26, 1977 when it was revoked.

Adopted. Ordered to Third Reading.

SB 77-FN, An act enabling certain municipal bodies to participate in the joint promotional advertising program. Inexpedient to Legislate. Senator Johnson for the Committee.

SENATOR JOHNSON: SB 77 seeks to extend a privilege to municipal bodies that is now only permitted by regional associations, statewide tourist groups, chambers of commerce and so forth. It was opposed by the Chairman of the New Hampshire Travel Council. It was introduced by Senator Preston, certainly an attempt to assist his area there, for which we commend him, but the fact of the matter is that in that area, the seacoast council on tourism has already received six grants under the current laws. The Hampton Beach Chamber of Commerce has also received a grant under the existing laws and the original intent was to leverage private monies, and not municipal or government monies, and therefore we recommend inexpedient to legislate.

Senator Preston moved to substitute Ought to Pass.

SENATOR PRESTON: This bill does not do any of the horrible things you might interpret it doing as reported out of the committee. It only gives the precinct an opportunity to participate in promotional programs. Believe it or not, Senator Johnson, the Hampton Beach Chamber of Commerce monies, the bulk of them had come from the precinct commission. The precinct, as there are lighting precincts, water precincts, fire precincts across the state, was founded back in the early 1900's when there were horses and buggies and fire wagons. Its principle role today is the promotion of Hampton Beach, the very area it pretends to serve. Uniquely, if they assess the taxpayers maybe upwards of \$150,000 for band concerts and advertising and billboards throughout the state and up in Canada to supplement the state promotion of resorts, this doesn't give them any state money. It just puts them on a parallel with the Council of Tourism, the White Mountain Association, the Nashua Chamber of Commerce, the Hampton Chamber of Commerce. They can be turned down. It's just another source of money available to promote tourism in the State of New Hampshire. It doesn't mandate anything. It simply gives the precinct or a municipal body who raises money that can be used for promotional purposes to have the same rights and privileges of other non-profit organizations. Now, if a municipality wants to do that, it's just permissive legislation; it's not mandating anything. If it were, you know me, Senator Johnson, I would never suggest that anything be done for my area that wasn't fair to others. This allows any municipality that does a similar thing in the state and I think we just heard from Senator Dupont in his argument in another bill that we should lift ourselves up by the boot straps and raise these monies. We've been doing it for years down there. Now all we're saying is that we want to participate in the state programs to promote our biggest industry on state tourism. This gives the opportunity, it's permissive legislation, doesn't mandate anything and I urge your support of ought to pass.

SENATOR DUPONT: Senator Preston, I'm really starting to wonder something and perhaps you could answer. I see bills to plow the sidewalks at Hampton Beach. I see bills for more troopers at Hampton Beach and it really seems like Hampton Beach is getting to be a burden to that area down there. I don't know if perhaps it might be appropriate for the state eminent domain all the property within one mile of the beach and we'll take care of it and collect the property taxes and do everything else so you don't have the burden of the beach on your shoulders anymore.

SENATOR PRESTON: That's an interesting question. In 1933 we did by eminent domain provide all that land on the east side of Ocean Boulevard to the state and they hadn't been living up to their responsibilities. That's why we had the seawall built and others. The bill for the state troopers certainly was to implement law enforcement on the highways of the entire state. If the voice from Hampton Beach is the one who has to speak up for the North country and all over, I will always do that as this is a statewide bill.

SENATOR PRESSLY: Senator Preston, the people from your area who came to speak to this were absolutely delightful people. The enthusiasm, the eagerness that they had to service your area is most exciting and the committee appreciated that. We agree that every organization should be definitely encouraged to promote tourism in their area and we are pleased and it was a pleasure to hear them speak. However, as we explored the technicalities of the legislation, we were lead to believe that the joint promotional program that was established was established primarily to generate new and private money. It was established to provide public money to be matched by private money and therefor to multiply and involve the private sector. It was pointed out that that really was the sole purpose of that. If we were to permit a governing body and municipality, another public purpose body, that also through taxes generates public money, then you will have public money matched by other public money. This would, in fact, defeat the purpose of this program which was to, in fact, bring in new and private money and match it in cooperation between government and private industry.

We also felt that there were other organizations within this region that did qualify, the Chamber of Commerce and the tourist groups, so that there was no way that this region was penalized in any way. It just meant that they could not apply as a governing body, but that their non-profit but private money organizations were, in fact, able to apply for this money. Although we were pleased with the testimony and the enthusiasm, we thought that in fairness to the whole state and to uphold the primary function and the intention of this type of funding, that it had to be restricted that only non-governing bodies could compete for this matching money and that was the rationale for the recommendation of inexpedient.

SENATOR PRESTON: I heard what you said and I appreciate the enthusiasm and I'm glad they made an impression on your committee. The purpose of the initial legislation, even before this, Senator, was to get twice the bang for the part on limited state dollars to

promote the state. You have some municipalities that are willing to spend the money through their Chambers of Commerce, the tourism bureaus, industrial development authorities, and they are saying, here's \$10,000 match it with ten, we'll do \$20,000 worth of advertising. It's the incentive to promote the state. That's the purpose of the bill, not public money against public money. If every town would come up with half of our tourism promotional dollars and the state match it, I'd be all for it because then we'd enhance tourism even more. The purpose isn't to get something for that area, it's any area. I would encourage more promotion from each individual community from throughout the state. I'm asking you if that's the interpretation that you got out of it?

SENATOR PRESSLY: Thank you. Our interpretation was different from that and I'm glad that you've asked the question because it is important to clear it up. We asked the members of the municipalities that requested this, are you intending to allocate these dollars for this purpose anyway and the answer was yes. That, in other words, the municipalities that within their own budget process do, in fact, determine that their region is one where recreation promotion is important. They're going to have it in their line item budgets anyway. It's going to be there and we really felt that that community was better served since the city or town was already going to give their money to have the promotional program money available to be matched by private organizations such as the chambers, the tourist groups, since the governing body's money was going to be allocated anyways. We did ask that question of the people from the town and they said that, if this did not pass, they would still be putting in the same amount of money than before for their recreational services. It was not expanding and the only way it could expand in your area would be to match it with private. That's what we were told in testimony, Senator Preston.

Motion failed.

Question: Adopt the committee report Inexpedient to Legislate .

Senator Bartlett called for a division vote.

8 Yeas

10 Nays

Motion lost

Senator Blaisdell wished to be recorded as opposed.

Senator Preston moved to substitute Ought to Pass



Adopted. Ordered to Third Reading.

SB 95-FN-A, An act to reimburse the mediator of the Eidelweiss-Madison negotiations, and making an appropriation therefor. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: This bill deals with an issue that goes back, I guess, two or three years ago and it was a conflict between Eidelweiss and Madison. The state stepped in and ordered that a mediator attempt to negotiate the conflict. There were no appropriations attached to that order and the negotiations have dragged on longer than anticipated. The person who has been doing the negotiations has been doing it out-of-pocket and this bill seeks to provide a \$1,000 appropriation to reimburse the mediator in the settlement negotiations between these two bodies and I think we ought to add that it is the Senate intent to limit any further expenditures to the \$1,000 that we would be appropriating at this time.

SENATOR CHANDLER: Could you give me a good reason why the local communities involved shouldn't pay for it themselves?

SENATOR JOHNSON: Yes, I can, Senator Chandler, because I share that concern and I think the reason is that the state stepped in and ordered this mediation and when you look at it from that point of view you really would have had an unfunded state mandate and this really attempts to reimburse the person who has attempted to do the mediation in good faith to reimburse that person for the out-of-pocket expenses, but I think we ought to put a limit on it and that should be the intent of this body now.

Senator Blaisdell moved to waive Rule #24.

Adopted.

Committee Report Adopted. Ordered to Third Reading.

SB 48, Relative to the appointment of certain town officers. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: As the Chairman, it's my responsibility to report out the committees decision. In this case it's in the record and it was, in fact, the record that was inexpedient to legislate. However, I would like to give my views and I invite the other members to give theirs also. This bill, there was a certain degree of ambivalence. It was a difficult hearing in that everyone who spoke to this obviously

had a very unique and special situation and as we discussed each person really stood to loose or gain personally from this, which made it very, very difficult. The concept of this legislation is to enable every town to, by a two-thirds town vote, make the decision, do they want to have their town clerk elected or appointed. The statutes currently require that all town clerks be elected. This would enable the towns to have the people choose to have elected or appointed. There is a reversibility clause which means, if at one town meeting by a two-thirds vote, decide to have the town clerk voted in and then at a later town meeting, again by a two-thirds vote, choose to change this, they may do that. That, to many of us, was certainly a compelling argument that really it is left up to the people. However, because of the ambivalence and the uncertainty, at least in my opinion, I did vote for inexpedient to legislate as did the others and I welcome the other members to speak to that and I've been lead to believe that the sponsor wishes to debate this and I welcome the debate of it.

Senator Roberge moved to substitute Ought to Pass

SENATOR ROBERGE: In addition to the town clerks, this bill also includes tax collectors, combined clerk tax collector and treasurer; really the financial officers of the towns. In this day and age when there is a great deal of money involved in many of these positions the town would like to have the opportunity to have, in the case a person who is qualified by experience and by education, to handle this money and if a town so chooses and they feel this is an important aspect of the qualifications of the person that should hold this position, I really think they should have the opportunity to vote that this person can be appointed, rather than elected and, in some cases, would have more assurance of the qualifications of the person. Also the person who is currently holding the position now would have some job security and they wouldn't be up, say, for election every other year, so to speak, and they would be able to plan on holding this position. With many qualified people, you cannot get them to run for a job like that if they know they might be put in the position of loosing the job in two years. So, I would ask for your support, I think it's a good bill and it is enabling legislation.

SENATOR KRASKER: Senator Roberge, am I correct that this is the procedure now that is in operation in the cities where these officers are appointed?

SENATOR ROBERGE: That's correct.

SENATOR BOND: I rise in support of the substitute motion, ought to pass. Under present statute, police chiefs, fire chiefs and road agents, among others, can be decided by the town meeting in the smaller towns as to whether they'll be elected or appointed. As things become more technically complicated these days, popularity contests should not really be the means whereby certain positions are filled. The smaller towns, particularly, should have the opportunity, I believe, where there is persuasive evidence given to the population and therefor a two-thirds vote swung that town clerks, tax collectors, combined positions and treasurers be elected or appointed, it'd be the option of the town. I served as treasurer of the town of Jefferson and I can tell you that you can make a very bad mistake if you elected somebody who wasn't aware of what the job of treasurer involved these days and I'd say that the town should be given the option.

SENATOR JOHNSON: First off, let me say that the fate and the future of New Hampshire does not hang on the passage or non-passage of this bill. Having said that, my position was based upon the notion that the present system has served us rather well over the years. It's based further upon the notion that when these positions are elective they really need to be responsive to all of the people in the town. I'm reminded of a term that I picked up from a former attorney general about the self-cleansing aspect of elections. Certainly the elections of town officers every two to three years are subject to this self-cleansing action and I can just tell you that my feelings won't be hurt either way.

SENATOR PRESSLY: That, I think demonstrates the dilemma with this. The ambivalence and the really not feeling very strongly one way or the other and, as I mentioned to the sponsor prior to the meeting, that I would certainly be happy to reverse my position on this. Another thought that I have had since this came up, is that really this might be the type of thing that is better debated in the House, because you have a better representation of all of the towns and I think there you're going to get much more discussion on this and possibly a better feel for it. I think the bottom line is that it's really up to each town's individual discretion and it does take a two-thirds vote to do this. So, to echo Senator Johnson's, you're not going to injure the feelings of this committee because it was an ambivalent decision.

Adopted. Ordered to Third Reading.

SB 37, Relative to clarifying the relationship between the state civil defense agency and local governments regarding development of nuclear emergency response plans. Split vote - 2 Ought to Pass and 2 Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: I would like to read a prepared statement. As you know from your agenda, that this is a 2-2 split, so this will be debated in this chamber.

During the public hearing on this bill, sixteen persons appeared in favor of the bill and no one opposed the bill. Visibly absent from this public hearing were representatives from the State Civil Defense Agencies. From all of those who spoke at our public hearing, we discovered that local input to the emergency response plans is clearly lacking. Each of the representatives expressed a willingness to cooperate with the State Civil Defense Agency, hoping to come to the point where all safety and logistical aspects could be worked out, leaving all parties confident that the nuclear emergency response plan would work. The committee heard testimony from a number of local civil defense directors and representatives. Among them were David MacDonald of Rye and Sandra Mitchell of Kensington. We learned that they are not confident with the plans, that they find the plans lacking. They would like to amend these plans with the local cooperation. I do find these plans dangerous to public safety. The prevailing point throughout this hearing was that the plans simply do not work. Basic logic concerns have been ignored and they need to be included. When a nuclear emergency response plan details the evacuation of boarding school students in Exeter to a safe, but non-existing dormitory, when bus drivers are expected to travel into radiological disaster areas; and when community teachers are asked to disregard concern for family and safety, to follow guidelines they do not understand or do not feel are logical, one must be left with a clear message. These plans will not work. They need to be corrected. That correction is to clarify the relationship between the state civil defense agency and local government. The 1975 Kiminey Commission Report investigated the 3 Mile Island nuclear disaster and reasonably concluded that before a nuclear power plant produces power, a nuclear emergency response plan is necessary. The prevailing wisdom and irrefutable conclusions of this commission's report was that local governments and local concerns must be the judge of the safety of these plans and must play a leading role in the development of nuclear emergency response plans. Simply put, the present state plans reject these local recommendations.

SB 37 encourages the wisdom and the cooperation of the local involvement and I encourage the Senate to accept the language and the wisdom and the emphasis on local involvement and the localities do want to be involved and do want to cooperate as the language defines in SB 37.

SENATOR KRASKER: SB 37 is a simple home rule bill, no more no less. It's a bill on behalf of 17 New Hampshire communities, 11% of the State's population, 88,000 people. They are the 17 towns living within a radius of 10 miles of the Seabrook station. This is a bill to allow them to protect the health and safety of their citizens, a right that all New Hampshire citizens are entitled to. Because of their proximity to Seabrook, emergency response plans are required for these communities. This is a requirement that was established by the NRC after the accident at 3 Mile Island in order to protect the population living in close proximity to the plant. This is nothing localities dreamed up for themselves. The NRC, in issuing the rule on emergency planning, recognized that the States and local governments have the right to restrict these plans and it's called the rationale for the final rule that's in the federal register.

In 1981 New Hampshire, in compliance with the NRC regulation, voted into law RSA 107B, the nuclear planning and response program. It's a very simple RSA; basically it's one paragraph. This law initiated the evacuation process in New Hampshire. It directs the New Hampshire Civil Defense Agency to cooperate with the towns and cities in developing emergency plans according to federal guidelines. The intent of the legislation - and I was in the legislature when it was passed - was to provide for local involvement in the development of the plans. The plans have to be based on local involvement, the towns know what's required; they know what local resources are; they have to implement the plans; they understand the logistics that are necessary to do that. RSA 107B was established to protect local communities, but now it's being used to take the right of public safety away from those 17 communities. You heard that local officials came to the public hearing. They told the committee that local input had been ignored in the formation of the plans. They told the committee what we, the Senators from the seacoast, know to be the truth; that they're paper plans; that they can't be implemented.

In the rush to get Seabrook on line, and I repeat evacuation plans are a requirement before licensing, the evacuation plans were submitted to the NRC without the approval of any of the 17 towns within the 10 mile radius. They were submitted before they were



workable. SB 37 amends and clarifies 107B, it returns the right to determine an evacuation planning to the towns where it belongs. The clarification defines one word, the word cooperation, and it makes specific the right of the local unit of government to determine through its legislative body when its nuclear response plan is sufficient to adequately protect the health and safety of its citizens. This amendment is consistent with the legislature's ability to confer home rule powers to local units of government. We do it all the time. We profess to believe in home rule. In New Hampshire we believe that government decisions should be made as close to the people as possible, particularly in matters affecting health and safety. Permission to operate a nuclear plant is a privilege, not a right, for New Hampshire Yankee. Safety of life and health is a right of New Hampshire citizens. This is an important distinction and one I ask you to consider in voting on this bill. I understand from the hearing, from talking to other Senators, it's difficult for you to comprehend our situation, unless you yourselves live with it every day as we do. Perhaps those of you in the western part of the State who are faced with the prospect of a nuclear waste site face a similar circumstance and you can understand. We ask you to give us the same opportunity for protection you want for yourself. All we ask is the chance to develop evacuation plans that really work. SB 37 will allow the process to continue. Public Service stated yesterday that the plant will not go on line by their estimates until 1988. Please restore to us the right to determine the level of protection necessary to protect our health and safety. Thank you.

SENATOR DUPONT: Senator Krasker, we had a nice conversation one day about this particular bill and I indicated that I had some concerns about whether these towns had this authority, would they make a good faith effort to participate. Recent comments from some of the communities lead me to believe that there are towns that no matter what you present for evacuation plans, they will never approve any evacuation plans. Can you assure me that all the towns that are involved in this will participate in evacuation plans and will ultimately approve evacuation plans?

SENATOR KRASKER: The officials who came to the public hearing indicated yes, that they would.

SENATOR DUPONT: Not so much the ones that came to the hearing, but some of the statements that I've heard in recent weeks indicate that there are towns that will never, and I use the word never, participate in any evacuation planning?

SENATOR KRASKER: I think there is great difficulty in developing adequate evacuation plans for some of the communities, but isn't that what the plans are supposed to do, to protect the people. I think communities should have a right to work until they come up with something that really does the job they're supposed to do.

SENATOR DUPONT: I'm really trying to clarify this, Senator. Then a town that was having the sirens removed, basically, you would say, that probably North Hampton would be willing to work on evacuation plans or does their intent, from what I'm reading in the newspaper, not indicate that they will never participate in evacuation plans?

SENATOR KRASKER: I have spoken to the Civil Defense director of the town of North Hampton, specifically, yes. He would like the opportunity to work on these plans. This is one of the towns within my district.

SENATOR WHITE: Senator Krasker, when this first started many years ago, weren't the towns given the opportunity at that point to put in their own evacuation plan?

SENATOR KRASKER: Perhaps Senator Preston can address that. When the evacuation plans started many, many years ago, the towns were never given the resources to develop their own plans. This is according to the legislation we passed. If you look at the funding mechanism, there is an assessment on the utility for the development of these plans and they have hired the consultants to prepare documents, voluminous documents. What the towns have wanted is input into the development of the plans.

SENATOR DISNARD: Senator Krasker, if one or two towns refused to participate would they have a veto over the rest?

SENATOR KRASKER: We were given testimony at our hearing that the utility would have the right to file compensatory plans for towns or cities that refuse to cooperate.

SENATOR DISNARD: Meaning that one or two towns couldn't veto the rest of the towns?

SENATOR KRASKER: That's true.

Senator Bond moved to indefinitely postpone.

SENATOR PRESTON: I can now rise in opposition to the motion of indefinitely postpone and I think that's a very insulting motion. I would rather have the Senators courageously stand up and vote ought to pass than inexpedient to legislate. I'm going to ask for a roll call whatever the motion is because it would be sad if this turns out to be a partisan issue where Republicans have caucused to vote against Democrats on an issue that interestingly enough effects the entire State, but relates in this bill to the 17 towns. Responsible elected officials the greatest percentage who are Republicans elected officials and that should have nothing to do with the issue, but those are the facts. We're talking home rule. What I'm hearing in the corners without being said on the Senate floor is home rule is a matter of convenience on issues such as this. You must understand, I've been in politics a little while but I have never been involved in an issue that has so frustrated sincere officials of all the communities, republicans and democrats, who view themselves helplessly. The issue has been politicized from Governor Thompson to Governor Gallan to Governor Sununu. We now have a nice Attorney General, very congenial fellow who is in action, who's a passive observer of the whole process, and the Nuclear Regulatory Commission votes in Washington, holds their meetings in Washington last week and votes 4 to 1 to change the rules of the game to the little black dot, which is further insulting. If you can support something like that occurring then shame on you. I talked to Mayor Greene in Rochester, former Senator. I said, Mayor Greene are you prepared under the plans for 200,000 visitors? Do you know what the city of Rochester is offering under the plan for Hampton Beach. That if anything occurred, and it's unlikely, we can go to the public works garage and get a free shower to hose us down. That's part of the plan. The man said we don't have much food, but we've got some canned goods left over in the shelters and we're speaking to the problem, but we could never accommodate those people.

It's interesting to me that politicians stood up and said, "we don't want a nuclear dump, we want the towns to have a say about Hillsboro." But you're not letting the towns have a say in the greater Seabrook area and the seacoast. We're talking of evacuation and safety of the people. How would you feel if the first evacuation rehearsal was held during school vacation and a man came down to the school in Hampton Falls and there was a knock on the door and the principal was on vacation, but he happened to be in there getting his books. He answered the door and the fellow said, I'm from Manchester and I'm suppose to evacuate students in a rehearsal and he said he had a hard time getting here, I'm an hour and a half late. That

would be funny if it wasn't so serious. Last week, sirens went off in the area. The police chief got over a hundred calls, the police chief in Seabrook called the plant and said what happened? They said we don't know, we'll call you back and he never got a call back. We're totally frustrated by everything that's going on here. Certainly no one appeared before the committee and I think that's even more insulting. You know, the word I got was that, civil defense doesn't have to be there, the utility doesn't have to be there. The people can't look for the Governor or the Attorney General to assist them in this matter. They are pleading with the citizen legislature. Public Service shouldn't be able to pull the switch in the Senate. If you believe in some home rule and giving us a sense of say in this and if some towns object, Senator, let the public utilities go and have the right as they do to come up with a plan and talk to the NRC. But lets not ram this down our throats.

SENATOR HOUNSELL: Senator Krasker, I don't for a minute doubt your sincerity in what you say, but I am curious, is Senator Heath on your committee?

SENATOR KRASKER: Yes.

SENATOR HOUNSELL: Then I am confused. I see that SB 37 does not have an FN, therefor it doesn't experience a sort of urgency and knowing Senator Heath being very much for the home rule, I'm trying to wonder why you may not have waited for his return, so that he might have voted on the home rule argument, so that you would have had a favorable on ought to pass motion out of your committee?

SENATOR KRASKER: I think Senator Pressly indicated when we had our executive session that Senator Heath had evidenced an interest in only one piece of legislation and it wasn't this one and that he had indicated that we could exect on any other bill without him and so we did.

SENATOR DISNARD: Senator Hounsell, during the last two weeks, why is Senator Heath not here?

SENATOR HOUNSELL: I don't know.

SENATOR DISNARD: In answer to the question, is he not visiting in Arizona?

SENATOR HOUNSELL: It is my understanding that he is visiting in Arizona.

SENATOR DISNARD: You do know?

SENATOR HOUNSELL: It is my understanding that he is.

SENATOR DISNARD: Thank you very much.

SENATOR HOUNSELL: But your question is why is he not here and I don't know why he is not here.

SENATOR PRESSLY: Senator Hounsell, I believe the question has come up on Senator Heath's wishes and as the Chairman of the committee, he did confer with me very specifically and he did ask for one bill, a landlord-tenant bill, to be held up until he returns which we have done. He specifically said to me as Chairman, that he did not expect any other legislation to be held up because he was on vacation. That was his very words. Would you believe?

SENATOR HOUNSELL: I believe that if you say so, but I would also say that trying to get a committee report favorable, I would think, would be important enough on a non-FN bill to wait for his return and try to attempt to have him, knowing that he is very much for home rule, to swing it for the committee.

SENATOR DUPONT: This is a very difficult issue for me because I had long discussions with Senator Preston on what's going on down in his area and I understand the emotional basis by which he stands up here and speaks on this issue. I guess, first off, I would say that I haven't been supportive of a reduction in the evacuation zone planning. I feel the 10 mile zone is appropriate. The plans ought to include what was originally decided upon as adequate and that is 10 miles. What really, really bothers me here is that if I had some assurances that all of the towns would participate and nothing in the bill spells out what cooperation is, it says cooperation shall include the right of a local unit of government to determine through its legislative body when any nuclear emergency response plan is sufficient, and I quite frankly believe that, and somebody can disagree with me, that perhaps what we really have here is just another referendum on whether Seabrook station ought to operate in the disguise of a bill that deals with local control and I certainly support the local control, if I had assurances in front of me that all of the towns would actively participate, would make a good faith effort to participate in the planning for the protection of their citizens then I probably wouldn't have any problem proposing this bill, but until I have that assurances, I don't think I have any choice but to make sure this bill does not become law.



SENATOR ST. JEAN: Senator Dupont, what would the distinguished Majority Leader consider to be actively seeking with the towns to participate in this whole process?

SENATOR DUPONT: Senator, I just, on a daily basis, pick up our local newspaper and comments by local officials down in that area that basically spell out the fact that nothing is going to be adequate other than this plant not coming on line. I've had comments made to me that it's not the evacuation planning issue; it's the shut down of the plant issue. If this doesn't do it, then there will be something else to do it. So, I'd just like to say, lets get it over with and if you want to vote on whether the plant ought to come on line or not, then we'll vote on that, but don't bring this in as an issue and use it as a reason for shutting down the plant.

SENATOR ST. JEAN: Would you believe Senator, I don't think that's the intention of Senator Krasker?

SENATOR DUPONT: Senator, if I can just inform you that Senator Krasker and I have discussed this issue and I believe her efforts are totally sincere in this and I think if she could have gotten me my response about the guarantee that they participate, I'd support the bill today. I said that in sincerely to her and I mean it sincerely right now.

SENATOR ST. JEAN: Is there some language that we could put into this legislation that would allow you to support it, in the form of a floor amendment?

SENATOR DUPONT: Senator, if you can find the appropriate languages and get the assurances from each one of the communities that they would participate, I probably would consider it.

SENATOR JOHNSON: I sat on this committee and it's clearly an emotional, very difficult issue for us all and that's probably the understatement of the day. We've certainly heard the eloquent and emotional comments from both Senator Krasker and Senator Preston. My concern with this bill, as written, is that I believe that the 17 municipalities have two options at the very moment. The first would be to indeed call for a public hearing to review that portion of the nuclear emergency response plan and to do this in an official request to the State's Civil Defense Agency. I asked this question on several occasions during the hearing and there really wasn't any hard evidence that any municipality had really gone to the Civil Defense Agency and said, Look, I don't think this is going to work, we call upon you to come out and review this plan with us.

The second option that they have is in addition to the first one and that is to state their concerns and objections to the Nuclear Regulatory Commission where this issue is currently being heard.

SENATOR KRASKER: Senator Johnson, do you remember it coming out in the hearing that the reason we're seeking this avenue is because the plans have already been submitted. They are already in Washington. We want them to come back so we can continue the process.

SENATOR JOHNSON: Yes I do remember that, Senator Krasker, and I also remember the testimony that came the second time that we had a hearing on this, was that the plans as written are really subject to change and I believe that if a municipality called the Civil Defense Agency and said let's have another hearing and review this and if defects were found, I think that there is at least a potential for those to be corrected.

SENATOR BLAISDELL: I wasn't going to get into this, but I oppose the motion by Senator Bond and I agree with Senator Preston. I think Bob has done an excellent job along with Elaine to explain their views. Everybody talks about it being Seabrook. I think it's a safety issue that we should be addressing here in this Senate. Last year I listened to one of the distinguished members of this Senate over in the Hillsboro area, Senator Chandler, get up at a hearing over there and tell why he didn't want that nuclear dump in his area. I think there was a lot mentioned. I think even Senator White might have participated because certainly that involved our whole area, and I think I heard them say more than once about home rule. We don't want it here in our area. I listened to all the other big politicians from Washington come and say the same exact things. We're not going to put it here. I've listened to the other big politicians in Washington say they favor the 10 mile zone; they don't favor the one mile zone. I still address this Senate on the safety issue. It's a safety issue for our kids and I can't emphasize that enough. I can't see how Senators can come one day and go to Hillsboro and befriend all the people over there and say one thing, then sit here in this Senate today and maybe vote against what other Senators are talking about when you come to a home rule issue. This is home rule. I've sat here for 16 years, I've listened to almost every Senator that sat in these seats tell me about a home rule - let the people decide. Don't mandate something back to them, don't do this, don't do that. We're always cognizant, we passed Rule 2 that says we can't mandate this back because it costs money. We've listened to that, we've had home

rule involved. I employ you to listen to the words of Senator Preston and Senator Krasker and maybe go back and retrace your own words when something comes to your area and say we don't want it here. It's home rule. Well, today you can put your vote where it belongs, back that up and say I don't want it there and really mean it. It is a safety issue and I hope you reconsider it. It shouldn't be a partisan issue, this is New Hampshire. I've listened to the Governor and everybody else say we want to keep it like it is. It's beautiful. Home rule goes along with that.

SENATOR CHANDLER: Senator Blaisdell, this is about evacuation plans, isn't it?

SENATOR BLAISDELL: Yes it is Senator.

SENATOR CHANDLER: Do you believe that those towns there would develop the evacuation plans?

SENATOR BLAISDELL: Yes I believe they would, Senator, if they were given the right. Just as Hillsboro said that they would talk about their plan on where a dump should and why it shouldn't be there and you agreed to that, by the way.

SENATOR CHANDLER: Then they had the opportunity to develop an evacuation plan. They've had that opportunity for several years and they've refused to do it. So what makes you think they'll do it now?

SENATOR BLAISDELL: How many years Senator?

SENATOR CHANDLER: Several.

SENATOR BLAISDELL: I don't think it's been that long.

SENATOR CHANDLER: Two or three.

SENATOR BLAISDELL: I'd have to dispute that several. It hasn't been that long and do you believe, Senator, that is time enough to be able to get a plan in place to get a couple, 300,000 people out of there on a Sunday afternoon?

SENATOR CHANDLER: I think it's time enough for these towns to develop plans, yes. I think they've had plenty of time. I know that getting a few thousand people off the beach would be difficult.

SENATOR BLAISDELL: Do you believe, Senator Chandler, that those cities and towns should have the right to have that plan come back to them so they can develop that plan and show good faith that they will develop a plan?

SENATOR CHANDLER: They've had plenty of chance to do it and they won't do it.

Question: Indefinitely postpone.

Roll call requested by Senator Blaisdell

Seconded by Senator Chandler

Those in favor: Senators Bond, Hounsell, Freese, Hough, Dupont, Chandler, Roberge, White, Charbonneau, Podles, Johnson, Torr, Delahunty.

Those opposed: Senators Disnard, Blaisdell, Pressly, Nelson, McLane, Stephen, St. Jean, Preston, Krasker.

13 Yeas

9 Nays

Motion adopted.

SB 234-FN, Authorizing the commissioner of health and human services to transfer authority for operation of medical assistance programs. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: This is a bill that was requested by the department of health and human services. Basically it was to make the system work better and to simplify it for local agencies. The thought put out by Don Shumway was that this would free up general fund dollars and allow medicaid funds to be used. Linda Radigan from the division of mental health and developmental services also testified for it and, according to Mary Mongan, she feels that we will be able to maximize medicaid revenues and doing this on behalf of the developmentally disabled and mentally ill citizens of the State and our hope is that we begin this transfer effective this coming July.

Adopted. Ordered to Third Reading.

SB 142-FN-A, Increasing rates for shared homes and for certain residents of community living homes and making an appropriation therefor. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: SB 142-FN-A increases the amount of monies that go to shared home individuals. We heard extensive testimony from people who run shared homes from around the State. A similar bill came in last session where we increased the rates not quite what should have been increased. They came back again this year. We're going to give them about a 10% increase. It's a good bill and I think it deserves passage.

Amendment to SB 142-FN-A

Amend the bill by replacing section 1 with the following:

1 Supplemental Appropriation. The sum of \$756,206 for the bien-nium ending June 30, 1989, is hereby appropriated to the division of human services, department of health and human services, for the purpose of increasing the standard of need under RSA 167:7, I-a, for residents of shared homes and for residents of community living homes who do not receive subsidies from the division of mental health and developmental services. This appropriation is in addition to any other funds appropriated to the division of human services, and such amount shall be reduced by the amount of any federal funds received. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Adopted. Referred to Finance under Rule #24.

SB 218, Relative to clean indoor air. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: If you will look in your calendar on page 12 you will see the only amendment to this bill which adds the words "in restaurants" to the title, "Relative to clean indoor air in restaurants". That's the addition. This legislation is the culmination of the joint efforts of the New Hampshire Lung Association and the New Hampshire Hospitality Association, which has 600 members. It requires restaurants seating 50 or more persons to provide clean air in dining areas where their patrons are seated. Clean air is defined as mechanically purified or ventilated air, which meets the standards set by the American Society of Heating, Refrigerating and Air Conditioning Engineers. In addition to this ventilation, the restaurants may also establish designated non-smoking areas or other non-smoking policies. Restaurants which, previous to the passage of this bill, have designated non-smoking areas are exempt from the provisions of the act. Also exempted are rooms in restaurants or other areas that are used purely for social functions and not under the



control of the proprietor or the manager. The rule making power is granted to the director of the division of public health services, who testified in favor of this bill to implement the act. Inspections will be made periodically by the division or a local health officer and there is a violation of \$25 for the first offense and then \$50 for each subsequent offense. All the testimony, with one exception, supported the bill. The one exception was the Tobacco Institute. The committee was certainly impressed with the cooperation which produced this legislation. We heard health testimony which just reaffirmed the surgeon general's report on the ill effects of tobacco smoke and we believe that this legislation should be adopted.

SENATOR HOUNSELL: Just a clarification because I certainly support the intent of this, but I'm wondering under Section 1 on the first page, line 7. You're talking about the standards of the heating, refrigerating and air conditioning engineers. Do you know if it's possible that a facility that does not allow smoking whatsoever may not pass that standard?

SENATOR KRASKER: If you designate non-smoking areas, if you've already done that, then you don't come under the legislation. That's on page two.

SENATOR HOUNSELL: Thank you.

SENATOR CHANDLER: I support this bill, but there is one feature of it that I don't like. However, I'm still in favor of the bill. The feature that I don't like is because it's limited to restaurants with 50 or more capacity of seating. That means a restaurant with 45 seats or 30 seats or 20 seats, they wouldn't come under this bill. Smoking in a small restaurant is worse than smoking in a big restaurant, because the area is smaller and the smoke would be thicker. I don't think you should limit it to restaurants with 50 or more capacity. However, I support the bill and I'm not going to try to amend it or anything, but I'd just like to state that I feel it's worse to smoke in a small restaurant than it is in a big restaurant.

SENATOR DISNARD: Senator Krasker, I have a problem. I'm concerned about the restaurant owner that may have a large group and he/she didn't have the money or the funds, someone who had just purchased a restaurant and hadn't set aside a non-smoking area. I'm concerned that you're not allowing these people the opportunity to do that. It goes along with your idea and I hope you understand what I'm saying by this. Now, the seacoast, some of those towns did

have the opportunity, but didn't do it and now you're wanting them to have the opportunity. I just don't understand the thing here where you wouldn't allow the man or lady the same opportunity to designate non-smoking?

SENATOR KRASKER: We discussed during our executive session the fact that this certainly isn't as stringent a bill or a perfect a bill, perhaps, as everyone would want, except that, it was the bill that was worked on by the Lung Association and by the Hospitality Association over a period of months and the Hospitality Association with its 600 members determined that this was acceptable to its members. This was the bill that was before us and we felt that in the interest of getting the best possible bill that we could, and it's been a long time coming as Senator Chandler can tell you he certainly sponsored legislation to do this before, that we would accept the best bill that we could get.

SENATOR WHITE: I'll be very brief. Senator Krasker has just gone over the point that I was going to mention. This is the first time that the Lung Association has sat down with the Hospitality Association and come up with an agreed bill and I think it's the first step and I think that both groups should be applauded for their cooperation in this effort. After this has been in effect for a year or so, then we can go one step further perhaps, but it's a great beginning and I hope that you can support the committee report.

#### Amendment to SB 218

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to clean indoor air in restaurants.

Amend the introductory paragraph, subdivision heading, and RSA 155:57 as inserted by section 1 of the bill by replacing them with the following:

1 New Subdivision; Clean Indoor Air in Restaurants Act. Amend RSA 155 by inserting after section 56 the following new subdivision:

#### Clean Indoor Air in Restaurants Act

155:57 Statement of Purpose. The purpose of this subdivision is to protect the health and comfort of the public by providing clean air in restaurants.

Adopted. Ordered to Third Reading.

SB 215-FN-A, Relative to funeral expenditures of certain indigent persons. Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: Presently, the State of New Hampshire has been paying \$300 for an indigent funeral for a recipient of public assistance. By the rule making process, this fee has been put up to \$750 and that is what they will be paying now. That's a good hefty increase. Well over 100%. This bill would ask for another \$400 for the funeral directors. They have said in the bill that what they would like is for the State to pay for a liner for the casket, which apparently prevents the ground from dipping down after the casket has been in the ground for some time and for the grave opening, which varies from community to community. You'd be interested to know that it's most expensive in Pittsfield, Senator Freese. Obviously, the fee does not cover all of the cost, but in light of the fact that they had received such a large increase already and in light of the fact that others such as doctors, pharmacists, and others are not receiving the full reimbursement for their charitable services, we felt that the \$750 was enough and said that this should be inexpedient.

Adopted.

SB 15, Relative to non-smoking areas where food is served. Inexpedient to Legislate. Senator Krasker for the Committee.

SENATOR KRASKER: SB 15, Relative to non-smoking areas where food is served, is a very fine bill, but the subject matter was covered in SB 218, so the committee has voted inexpedient to legislate on SB 15.

Adopted.

SB 87, An act relative to the confidentiality requirement for explosive licenses. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: This bill was essentially a request by the Department of Safety, Systems Commissioner Doug Patch testified. Basically what he said was the current law is too restrictive. This bill would not release information in regard to any storage sites and so I think there is adequate protection in this bill.

Adopted. Ordered to Third Reading

SB 107-FN, An act relative to the New Hampshire state airport system plan and making an appropriation therefor. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: It was not up until this moment we had contemplated using the body of this bill as an amendment to an evacuation bill previously heard. This bill appropriates the sum of \$200,000 biennium for the purpose of updating the State airport system. Actually the appropriation of State funds is \$20,000. Senator Dupont is the sponsor and he really needs this bill for his area as much as we needed SB 37. I urge its passage.

Adopted. Referred to Finance under Rule #24.

SB 105-FN, An act relative to the central interagency motorpool study committee. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: This bill refers to legislation that has been previously enacted, setting up a study committee for a central interagency motorpool. They were originally required to report during a two year period ending December 1, 1986. This legislation permits the extension of that to December 1, 1987.

Adopted. Ordered to Third Reading.

SB 99-FN, An act establishing a study committee to determine whether the department of transportation has fully implemented the legislative directives of the general court. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: This bill establishes a study committee to determine whether the department of transportation has fully implemented the legislative directives of the general court. I think it answers many of the concerns expressed by yourself, myself and other Senators like Senator Pressly and Senator Nelson from Nashua, regarding whether or not the newly organized department of transportation is following the Senate mandates. Representative Whittemore indicated that the reorganization really took a lot away from the legislature and it seemed to give too much authority to the commissioner. I think this bill will be very effective. The analysis reads a period of ten years. The amendment would change that to reflect legislation passed in the last biennium in 1985 and 1986, just to let us legislators that voted on the legislation to see if it's being carried out as we intended it.

## Amendment to SB 99-FN

Amend paragraph IV as inserted by section 1 of the bill by replacing it with the following:

IV. In conducting the study described in paragraph I, the committee shall review all legislation that has been enacted into law in the 1985-1986 biennium that has authorized and directed the department of transportation to undertake certain construction, reconstruction of existing highways, or new highway projects, and appropriated funds, either by bonds, a charge against the highway fund or the turnpike system, and shall determine if the work authorized has been accomplished, and if not, the reasons for such failure.

Adopted. Referred to Finance under Rule #24

SB 173, Relative to disclosure of motor vehicle defects. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: The current law requires disclosures of damages occurring in transit to motor vehicles, but does not specify who must make the disclosure or to whom. So as it exists right now, the possibility is that you could buy a new car that did indeed incur damage in transit and you would not necessarily know about it. SB 173 clarifies and strengthens the existing law to ensure that both the dealer knows about any damages that would have occurred and also the distributors that might be receiving a vehicle in a port of entry.

Adopted. Ordered to Third Reading.

SB 179, Relative to number plates on motor vehicles. Inexpedient to Legislate. Senator Johnson for the Committee.

SENATOR JOHNSON: SB 179 would change the existing law that requires two license plates on vehicles and replace that with the requirement for only one in the rear of the vehicle. The commissioner of safety opposes this bill. He talked about the fact that there is an eight to nine year supply right now. He also said that the bill would cause unnecessary confusion. He emphasised that the law enforcement officers definitely want two plates on New Hampshire registered vehicles. He also point out that New Hampshire's reflectorized license plates are indeed a safety device and should be retained.

Adopted



SB 198-FN, An act relative to special number plates for Lions Club members. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: This was a request for plates for Lions Club members and it was outlining the charitable causes, particularly those for the blind and all the assistance they provide throughout the State, but the commissioner of safety testified and the committee agreed that if several special licence plates are issued, what's to prevent every organization from coming in, be it the Garden Club or the Elks Club or whatever, and we just felt as though this isn't appropriate and moved inexpedient to legislate.

SENATOR JOHNSON: Senator Preston, if this bill doesn't pass do you expect to hear a roar?

Adopted

SB 188-FN, An act relative to registration of autocycles. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: There was a long hearing on this bill and perhaps the sponsor wants to stand up and explain the legislation and everything as to what an autocycle is. We didn't have any demonstrations as we had last year. The committee members are too intimidated to ride in such a vehicle after hearing the commissioner of safety who strongly opposed this. The autocycle depicted in a drawing looked like a fly without wings and it certainly couldn't be permitted safely on the highways of New Hampshire and we're not aware of any State where they allow such vehicles.

Adopted.

SB 146, An act establishing state speed limits consistent with the current national maximum speed limit. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: We moved this inexpedient. This would have established our State maximum speed limit which is statutorily now 75 miles an hour to 55. Congress is currently considering the Senate having passed the 65 mile an hour speed limit and I think we addressed this in other legislation.

Adopted.

SB 209-FN, An act relative to implementing national standards for specific information signs. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: I would respectfully request that, as the sponsors have asked, that we take another look at this, so I move recommitment to committee.

Adopted.

SB 44-FN, An act creating additional exemptions under the interest and dividends tax. Inexpedient to Legislate. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This is a very noble bill, no question. I have to remind myself of the words of Senator White when she said someone else will have to say no. I've said no over the last few years. This bill would decrease revenues about 1.2 million in 1988 and 1.3 million in 1989. Dividends and interest tax, you know, brings in about \$60 million to the State of New Hampshire and I've listened in Senate Finance to the Governor's office and everyone else coming in and telling me the budgets are very tight and so I have to go along with inexpedient to legislate and hope the Senate will protect the revenue of the State of New Hampshire.

Adopted.

SB 45-FN-A, An act to phase out the interest and dividends tax. Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: I would say ditto to what Senator Blaisdell said on the last bill. It is too expensive for the State of New Hampshire.

Adopted.

SB 104-FN-A, An act relative to the rate of the business profits tax. Inexpedient to Legislate. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This was the unanimous vote of the Ways and Means committee, I believe that we were very concerned about the trigger mechanism that was in this bill and we're waiting for other bills to come through the legislature, so we had this bill as inexpedient to legislate.

Adopted.

HB 162-FN, An act relative to sunset review of the board of tax and land appeals. Ought to Pass. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This bill would renew the board of tax and land appeals in the State of New Hampshire. We feel that it was in the best interest of the people of the State of New Hampshire to give them an opportunity to have a place to go in case they had a problem, so we ask that this is ought to pass and we hope you agree with us.

SENATOR PRESTON: This is another one of those sunset bills of 1991 and I think they should move on to Enrolled Bills if we get directive from Legislative Services. It's a typographical error.

SENATOR DISNARD: With this sunset review information that was passed on, were there any recommendations that nobody acted on?

SENATOR BLAISDELL: I believe that the sunset people told us that everything that they recommended was being acted upon. They jumped to it very quickly Senator Disnard.

Adopted. Ordered to Third Reading.

SB 226-FN, An act relative to the rainy day fund. Inexpedient to Legislate. Senator Chandler for the Committee.

SENATOR CHANDLER: You all know what the rainy day fund is and a time to put money into the rainy day fund is when we have some extra money available to properly fund the rainy day fund. This bill would limit the amount of money that could go into it. The proposal is to put \$25 million into the rainy day fund and I would hope that someday we might even have \$100 million in the rainy day fund to protect us in case of a recession or a depression or when state revenues didn't live up to the expenses. We would have a nest egg there that we could draw on and I don't think that the position of the State now, that \$25 million, I don't think that's too much to put in there. It's a good time to put it in, when we've got the money to put in. This bill here would limit it to stabilization reverse account shall not exceed 5% the actual general fund of restricted revenues for the most recently completed fiscal year, but that not more than 1 and a half percent of the actual general fund of restricted revenues. If we only put that amount of money in it, whatever it comes to, it might jeopardize some of the programs we have now, AFDC programs and other ones. If they need extra money and we only had a small

amount in the rainy day fund, the extra money wouldn't be available. The committee felt that we should put the \$25 million in and that would kind of guarantee that some of these other programs for indigent people, homeless people, AFDC gang, would have something there they could draw on if they had to. That's why the committee report is inexpedient.

SENATOR BLAISDELL: It's obvious that I didn't agree with the \$25 million going into the rainy day fund. I think before this session is over you're going to be looking for some of that money, but I would suggest that next time we come back into session, Senator Chandler, that if you want to reduce or do away with the dividends or interest tax there's plenty of money in the rainy day fund to take care of those elderly people that you always talk about.

SENATOR MCLANE: I had a very long speech to give today, but Senator Chandler has so convinced me and I really want to meet our guest, so I'll sit down.

SENATOR HOUNSELL: Well, I won't have to speak long because Senator McLane didn't, so I will also likewise sit down to meet our guest and also indicate that it is important that we put a little bit of money away.

Adopted.

### INTRODUCTION OF GUESTS

SENATOR STEPHEN: It gives me great pleasure to introduce these boxers here from out-of-state, it's not interstate and has nothing to do with interstate banking either. In Concord, tomorrow evening at the Capital Theater, we're going to have a professional boxing match, one of the first in the State of New Hampshire in the last five or six years.

### VACATE

Senator Preston moved to vacate SB 141.

SB 141, An act naming the interstate bridge between New Hampshire and Maine the Sarah M. Long Bridge, from the Committee on Transportation to the Committee on Interstate Cooperation .

Adopted.

## ANNOUNCEMENTS

## RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time, and that when we adjourn, we adjourn until Monday, March 9, 1987 at 1:00 p.m.

Adopted.

## LATE SESSION

## Third Reading and Final Passage

SB 86-FN-A, Relative to a memorial for Governor Sherman Adams.

SB 232-FB, Relative to the board of barbering and cosmetology.

SB 197-FN, Relative to alarm installers

SB 193, Reinstating the charter of United Energy Systems, Inc.

SB 123, Amending the ward lines for the city of Portsmouth.

SB 57, Relative to change of name and address of a corporation

SB 69, Enacting the uniform limited partnership act.

SB 70, Amending article 8 of the uniform commercial code.

SB 71, Adopting the uniform fraudulent transfer act.

SB 166-FN, Abolishing the sunset review process.

SB 50, Relative to damages from construction.

SB 56, Relative to false impersonation of a law enforcement officer or investigator.

HCR 10, Relative to Joint Rules

SB 102-FN, An act establishing a study committee to assess the need for enterprise zones.

SB 62, An act relative to counting absentee ballots in cities and towns which use voting machines.



SB 73, An act to revive the charter of the First Congregational Church of Salem.

SB 77-FN, Enabling certain municipal bodies to participate in the joint promotional advertising program.

SB 95-FN-A, To reimburse the mediator of the Eidelweiss-Madison negotiations and making an appropriation therefor.

SB 48, Relative to the appointment of certain town officers

SB 234-FN, Authorizing the commissioner of health and human services to transfer authority for operation of medical assistance programs.

SB 218, Relative to clean indoor air in restaurants.

SB 87, An act relative to the confidentiality requirement for explosive licenses.

SB 105-FN, An act relative to the central interagency motorpool study committee.

SB 173, An act relative to disclosure of motor vehicle defects.

HB 162-FN, An act relative to sunset review of the board of tax and land appeals.

Adopted.

### RECONSIDERATION

Senator Blaisdell moved reconsideration on HCR 10, Joint Rules.  
Motion lost.

Senator Blaisdell moved reconsideration on SB 50, Relative to damages from construction.  
Motion lost.

Senator Dupont moved adjournment.

Adopted.

Adjourned.

*Monday, March 9, 1987*

Senate met at 1:00 p.m.

Senator Freese in the chair.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

LET US PRAY. Lord, grant us the ability to maintain government of The People, By The People and For The People. May we never be persuaded by personal gains or by others to depart from what is good and right for all of our Constituents!

Amen.

Senator Heath led the Pledge of Allegiance.

#### INTRODUCTION OF GUESTS

#### HOUSE MESSAGES

#### INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 67 through HB 108-FN, CACR 2, HCR 7, 9 and HJR 1 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

#### First and Second Reading and Referrals

HB 67, Relative to urea-formaldehyde. (Public Institutions, Health and Human Services)

HB 13, To revive the charter of the Chocorua Chapel Association, a non-profit organization. (Public Affairs)

HB 46, Relative to the state radiation advisory committee. (Executive Departments)

HB 121-FN, Relative to sunset review of board of registration of podiatrists. (Executive Departments)

HB 208-FN, Relative to the limit on trout taken by fly fishing in Clarksville Pond in the town of Clarksville. (Development, Recreation and Environment)

HB 99-FN, Relative to district court sessions in towns within a district. (Judiciary)

HB 241, Relative to workers' compensation. (Insurance)

HB 71, Relative to the fiscal note process. (Internal Affairs)

HB 180-FN, Establishing a study committee to examine the publication and distribution of session laws. (Internal Affairs)

HB 266, Relative to the state veterans' needs committee. (Public Affairs)

HB 189-FN, Eliminating certain restrictions on bank branching. (Banks)

HB 221, To revive the charter of the Pequawket Foundation, a non-profit organization. (Public Affairs)

HB 54, Prohibiting interference with hunters, trappers and fishermen. (Development, Recreation and Environment)

HB 78-FN, Relative to flying the POW-MIA flag over the state house. (Public Affairs)

HB 164-FN, Relative to sunset review of Connecticut River Valley flood control commission. (Development, Recreation and Environment)

HB 170-FN, Relative to sunset review of Merrimack River flood control commission. (Development, Recreation and Environment)

HB 43, Relative to eligibility for admittance to the New Hampshire veterans' home. (Public Affairs)

HB 90, Relative to membership on the New Hampshire automated information system board. (Public Affairs)

HB 172-FN, Relative to sunset review of New Hampshire housing finance authority. (Executive Departments)

HB 15, Relative to the placement of candidates' names on ballots. (Public Affairs)

HB 32, Relative to the election of the chairman of the university system study committee. (Education)

HB 175-FN, Terminating the standard bred breeders and owners development agency. (Development, Recreation and Environment)

HB 66-FN, Reviving the charters of Camp Tecumseh and the Webster Lake Association. (Public Affairs)

HB 110-FN, Relative to sunset review of the New Hampshire retirement system. (Executive Departments)

HB 118-FN, Relative to sunset review of board of optometry. (Executive Departments)

HB 119-FN, Relative to sunset review of pharmacy commission. (Executive Departments)

HB 127-FN, Relative to sunset review of the board of veterinary examiners and relative to preliminary hearings. (Internal Affairs)

HB 166-FN, Relative to sunset review of department of health and human services - division of public health services - electrologists. (Public Institutions, Health and Human Services)

HB 176-FN, Relative to sunset review of state board of auctioneers. (Executive Departments)

HB 22, Relative to methods of hunting and possession of deer and moose and illegal night hunting. (Development, Recreation and Environment)

HB 38, Relative to the method of taking deer in the town of Madbury. (Development, Recreation and Environment)

HB 47, Relative to certain fish and game licenses. (Development, Recreation and Environment)

HB 61, Relative to the executive director setting the deer and bear seasons for taking. (Development, Recreation and Environment)

HB 142-FN, Relative to sunset review of the fish and game department - administration and support. (Development, Recreation and Environment)

HB 196, Establishing a study committee to determine the feasibility of establishing OHRV trails on rights of way of state highways. (Development, Recreation and Environment)

HB 94, Relative to real estate attachments. (Judiciary)

HB 141-FN, Relative to sunset review of the commission on human rights. (Executive Departments)

HB 328-FN-A, Relative to business profits tax liens. (Judiciary)

HB 186, Relative to the appointment and terms of alternates for certain municipal offices. (Public Affairs)

HB 259, Relative to the alcohol content in alcoholic beverages. (Ways and Means)

HB 299-FN-A, Continuing pari-mutuel tax credits for dog races, and raising the limit therefor. (Ways and Means)

HB 201-FN, Relative to the use of the New Hampshire hospital buildings and relative to the disposal of state-owned property. (Capital Budget)

HB 171-FN, Relative to sunset review of the New England interstate water pollution control commission. (Development, Recreation and Environment)

HB 230, Establishing a hotline for missing children. (Public Institutions, Health and Human Services)

HB 236, Relative to durable powers of attorney. (Public Institutions, Health and Human Services)

HB 224-FN, Establishing a study committee to ascertain the feasibility of establishing restaurants along the turnpike system where permissible. (Transportation)

HB 168-FN, Relative to sunset review of joint board of engineers, architects and land surveyors. (Executive Departments)

HB 269-FN-A, Relative to the appropriation for motor vehicle replacement. (Finance)

HB 204-FN, Requiring supervisors of the checklist in the New England states to be notified when a voter is added to a checklist in New Hampshire. (Executive Departments)



HB 11, Relative to the number of library trustees. (Public Affairs)

HB 106-FN, Relative to sunset review of board of claims. (Executive Departments)

HB 111-FN, Relative to sunset review of the board of accountancy. (Executive Departments)

HB 115-FN, Relative to sunset review of regulation of electricians. (Executive Departments)

HB 116-FN, Relative to sunset review of funeral directors and embalmers board. (Executive Departments)

HB 126-FN, Relative to sunset review of the commission on the status of women and making certain changes relative to the commission. (Executive Departments)

HB 161-FN, Relative to sunset review of the board of barbering and cosmetology. (Public Institutions, Health and Human Services)

HB 277-FN, Continuing the task force to study mental health services. (Public Institutions, Health and Human Services)

HB 123-FN, Relative to sunset review of public employee labor relations board. (Public Affairs)

HB 434, Relative to the public employee labor relations board. (Public Affairs)

HB 104-FN, Relative to sunset review of the office of state planning. (Development, Recreation and Environment)

HB 184, Relative to docking on public waters of the state. (Development, Recreation and Environment)

HB 192-FN-A, Establishing a program of regional and municipal assistance in the office of state planning. (Development, Recreation and Environment)

HB 225, Relative to stream reclassification of certain waters of the state. (Development, Recreation and Environment)

HB 280, Relative to water usage. (Development, Recreation and Environment)

HB 306, Limiting the horsepower of boat motors on Marchs Pond and Chalk Pond in the town of New Durham and prohibiting the use of jet skis on said ponds and on Pine River Pond in the town of Wakefield. (Development, Recreation and Enviornment)

HB 220-FN, Relative to the removal of petroleum powered vehicles from surface waters of the state. (Development, Recreation and Environment)

HB 26-FN-A, Making an appropriation for the New Hampshire bi-centennial commission on the United States Constitution. (Finance)

HB 29, Relative to the fees paid to municipal shelters or humane society facilities for unlicensed dogs held there. (Public Affairs)

HB 215-FN, Relative to certain expenses for laying out a highway at the request of a petitioner. (Transportation)

HB 232-FN, Relative to the homestead exemption for disabled veterans. (Public Affairs)

HB 458-FN, Relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations. (Judiciary)

HB 718, Clarifying certain planning and zoning statutes. (Public Affairs)

HB 438, Relative to applicants for armed security guard and armed private dectective licenses. (Public Affairs)

HB 609-FN, Relative to the New Hampshire National Guard. (Public Affairs)

HB 698-FN, Requiring accessible polling places and voting booths for physically disabled and elderly persons. (Executive Departments)

HB 249-FN, Relative to the shore frontage and acreage at the Laco-nia State School and Training Center. (Executive Departments)

HB 382, Relative to boating law enforcement. (Development, Recreation and Enviornment)

HB 294-FN-A, Exempting the sale of a manufactured housing park to a tenants' association from the real estate transfer tax and requiring a manufactured housing park owner to give notice to a tenants' association before selling the park. (Ways and Means)

HB 316-FN-A, Permitting refunds for stamps destroyed after affixing to tobacco products. (Ways and Means)

HB 362-FN-A, Relative to returns and taxable meals under the meals and rooms tax. (Ways and Means)

HB 108-FN, Relative to sunset review of the department of revenue administration - revenue collection, and relative to certain functions of the department of revenue administration. (Ways and Means)

CACR 2, Relating to the term of the governor. Providing that the term shall be 4 years. (Executive Departments)

HCR 7, Relative to the priority of employee claims in Chapter 11 bankruptcy proceedings. (Ways and Means)

HCR 9, Inviting Chief Justice Brock to address a Joint Convention on the state of the Judiciary.

HJR 1, Relative to the New Hampshire agricultural experiment station. (Development, Recreation and Environment)

#### HOUSE CONCURS WITH AMENDMENTS

HB 89, Relative to library areas.

HB 149-FN, Relative to the sunset review of Laconia State School and Training Center.

HB 148-FN, Relative to sunset review of Glencliff home for the elderly.

#### HOUSE CONCURS WITH SENATE BILL

SB 31-FN-A, Relative to the department of health and human services, and making an appropriation therefor.

#### COMMUNICATION

State of New Hampshire  
Office of Legislative Services

March 5, 1987

Honorable William S. Bartlett, Jr.  
Senate President  
State House  
Room 302  
Concord, NH 03301

Dear Senator Bartlett:

The sunset staff and OLS are aware of the error in the renewal date on the sunset bills and are correcting any bills which are being amended substantively. Any bills which do not have substantive amendments will be corrected during the enrolled bills process, except the bill renewing the program established for veterinary, medical and optometry students, which is reviewed every 4 years, pursuant to RSA 17-G:5, II.

I hope that this solution is satisfactory. Thank you for your attention to this matter.

Sincerely,

Lynne M. Dennis  
Director

#### Notice of Reconsideration

Senator Hough has served notice of reconsideration on SB 148.

SB 148, Relative to procedures for distribution of certain federal funds allocated to the state.

#### COMMITTEE REPORTS

SB 233-FN, An act relative to capital budget requests for airports in the state. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: The amendment that we propose is on page 11 of your Senate Calendar. All it does is change from "the Commissioner shall" to "the Commissioner may." The bill in essence changes back to what was law prior to 1981. What it does is it gives the commissioner the ability to recommend to capital improvements rather than thru the operating budget or capital projects.

SENATOR HOUGH: Senator Torr, you indicated that your amendment simply changes "shall" to "may". Could you give me your rationale for the amendment defining "shall" to "may"?

SENATOR TORR: The recommendation of the committee to go to "may" was, in fact, it was not an appropriation for federal funds for airports, but the commissioner wouldn't have to make a recommendation that year. If you use the word "shall", that's demanding, that it does happen and "may" is more permissible.

SENATOR HOUGH: Excuse me, I didn't hear you regarding the federal funds?

SENATOR TORR: If in fact there are no federal funds available, this gives the commissioner the opportunity of not proposing handicapped improvements. If you use the word "shall" he has to make a proposal to capital expenditures in that category. But the word "may" is more permissible.

SENATOR HOUGH: So in effect the federal to aid opt grants that have been repeatedly out there?

SENATOR TORR: Right.

SENATOR HOUGH: It seems to be that could be no capital, there would be accessible capital budget on non-state owned airports by lacking the federal aid opt grants for the budget?

SENATOR TORR: That's right.

#### AMENDMENT TO SB 233-FN

Amend the bill by replacing section 1 with the following:

1 Reference Change. RSA 422:14-b is repealed and reenacted to read as follows:

422:14-b Capital Improvements. The commissioner may submit capital expenditure requests for projects directly related to airports that are either wholly owned by the state or are eligible for federal funds.

Amendment Adopted. Ordered to Third Reading.

SB 51, Relative to airboats, mufflers, and decibel levels of boats. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: SB 51 was introduced at the request of the Department of Safety Services. This bill reflects on RSA 270:25 which already has decibel limit and that it does not change the decibel limits. What it does do is put into operation a better system of checking those so called loud boats and enforcing the law. This bill relaxes the limit, but also under page 2 line 21 does give authority to the directors to prohibit the use of airboats when it is adversely effects fish and wildlife and interferes with operation of water craft.



It threatens the public safety and adversely effects the national environment. The amendment that you have on page 9 of your calendar addresses the need to discuss and address the problem of when an airboat shall be allowed to throttle up to the minimum extent necessary to raise into the air cushion and move at a headway speed. I think the feeling of the committee is that the amendment addresses the intent of the bill, which is to allow for the better control and enforcement of louder boats and we urge its passage.

#### AMENDMENT TO SB 51

Amend RSA 270:25-a, I as inserted by section 3 of the bill by replacing it with the following:

##### 270:25-a Airboats.

I. No airboat shall be operated in the state unless, in addition to complying with the provisions of this chapter, it complies with the following provisions:

(a) The airboat shall be equipped with an enclosure to prevent contact with the propeller;

(b) The airboat shall not be operated within 150 feet from shore except to go directly to and from a point of destination on the shore and then only at a course which is as close to 90 degrees to the shore as possible;

(c) The airboat shall be throttled up only to the minimum extent necessary to raise it onto the air cushion and move at headway speed within 150 feet from shore.

Amendment Adopted. Ordered to Third Reading

SB 63-FN-A, Establishing the Alana J. Cole state park and making an appropriation therefor. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The committee held a hearing on this bill and there was no one that attended in opposition. I would point out that we did take testimony from Trudy Cummins of the Division of Parks and she indicated a need for the amendment that is before you. The amendment strikes from the bill, found on page 2 of SB 63 lines 2-4, the language that would designate that this land would be named the Alana J. Cole State Park. The reason behind this is the Division of Parks didn't feel that it was a good policy to name a park after someone who was paid for the land. It might stagnate or not enhance the opportunity for people who want to donate land, which sometimes the incentive to have it named after them takes place.

We had a question about the appropriations and I have been informed that this will be sent to Finance so that the seemingly large sum would be addressed in more detail. The committee does feel that this is very important land along the part of the state that is growing fast and we think that it's worth protecting at this time.

SENATOR DUPONT: Senator Hounsell, I guess I had a couple of question and you indicated that the bill would be going to Senate Finance so perhaps we may best address them down there. But, could you basically tell us why this a key piece of land and perhaps if you can't do that, maybe Senator Hough might be able too?

SENATOR HOUNSELL: I think Senator Hough could answer that better because he is familiar with the land, but I would also want to state that he has convinced me that this part of the State, this particular piece of land is very important to our park system. I would just further state that the committee agrees to that and I personally agree that this land is very important and worth protecting. But I do defer to Senator Hough, if he would like to comment more about the land.

SENATOR DUPONT: That's all right, I think we can probably best address my other concerns down in Senate Finance.

SENATOR JOHNSON: Senator Hounsell, is there any precedent for the joint management of a piece of land like this park by the Department of Fish and Game and the Division of Parks and Recreation? I'm referring to line 14 and 15 on page 1.

SENATOR HOUNSELL: I would like to answer that question, sir, by reading from the transcript because I asked that question in committee. "This bill calls the Division of Park and Recreation jointly manage and maintain and operate with Fish and Game. Has this been done or being done elsewhere in the state?" The answer that I had from the Representative of Parks was, "We have a cooperative land management committee and yes, in fact, that Pisgah State Park, for instance, in the southwestern part of the state we do cooperatively manage. It has 13 thousand acres. So the answer by testimony is, yes.

#### AMENDMENT TO SB 63-FN-A

Amend the title of the bill by replacing it with the following:

## AN ACT

establishing a state park on the Connecticut River  
and making an appropriation therefor.

Amend the bill by striking all after the enacting clause and replacing it with the following:

1 New Chapter; State Park. Amend RSA by inserting after chapter 216-H the following new chapter:

## CHAPTER 216-I

## STATE PARK

216-I:1 Declaration of Policy. Pursuant to the intent of RSA 216-A to develop, operate, and maintain a comprehensive state park system for the recreational needs of the citizens of the state, the general court authorizes the purchase of 16 acres, more or less, with approximately 2,000 feet of frontage along the Connecticut River in West Lebanon, New Hampshire, for the purpose of establishing a state park.

216-I:2 Authority. The commissioner of the department of resources and economic development, with the approval of governor and council, is hereby authorized to purchase from the current owner, Alana J. Cole, the property described in RSA 216-I:1. The division of parks and recreation and the department of fish and game shall jointly manage, maintain, and operate this state park. The park shall be retained by the state in the state park system.

2 Appropriation. The sum of \$280,000 is hereby appropriated for the fiscal year ending June 30, 1988, to the department of resources and economic development for the specific purpose of purchasing the 16 acres, more or less, of land along the Connecticut River in the town of West Lebanon, from the current owner Alana J. Cole, for the purpose of establishing a state park. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect July 1, 1987.

Adopted. Referred to Finance under Rule #24.

SB 72, Relative to the industrial development authority and industrial development revenue bonds. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This bill relates to the industrial development authority and is essentially a housekeeping bill, that authorize the chairman and the vice chairman the executive director of the authority assigned for changes which effect forms after the subsequent issue of the bonding. Many times the bank and the bonding company might agree to name change or something like that within the document. Instead of waiting for a monthly session to take place this could be accomplished by the offices of the authority.

SENATOR NELSON: Senator Preston, I just wanted to know, in terms of the bonding, what kind of bond is this? Is it anything to do with treasurer? Is she aware of all this?

SENATOR PRESTON: Yes, the bonding might be for a new industry coming in to Nashua. Bonds are issued through the industrial development, through banks, guaranteed by the state and so forth. Sometimes there might be a merger or a large corporation that owned this company, and the bonding company approves it, the bank approves it, but the industrial development authority is a party and they would have to acknowledge the change.

SENATOR NELSON: Is this done by other authorities in the State? I mean this is the normal occurrence that the chairman and vice chairman could vote on something like this in a meeting?

SENATOR PRESTON: No, it's usually done at their monthly meeting and the board has voted on. But if it's a small change that's not substantive, a small change that's been agreed to by a bonding company and by a bank, then this allows that the officer of the authority to act instead of the authorities other than their monthly meeting. It just facilitates things and it's something that has already been voted upon by the authority. It does nothing to lessen or weaken our obligations or guarantees.

Adopted. Ordered to Third Reading.

SB 96-FN, Relative to local control and regulation of granite quarry operations. Interim Study. Senator Preston for the Committee.

SENATOR PRESTON: SB 96-FN at the request of the sponsor has indicated that there is no urgency to this issue, the proposed amendment was not ready at the time. So he is respectfully requesting interim study so that this might be properly prepared for the next session.

Adopted.

SB 55, Relative to parent and pupil rights. Inexpedient to Legislate. Senator Bond for the Committee.

SENATOR BOND: SB 55 had a fairly extensive hearing with a great deal of irrelevant testimony. We found that it is duplication of the Hatch Act Federal Law that protects these rights to the student and the parent. We recommend inexpedient to legislate.

SENATOR HOUNSELL: Senator Bond, understanding the committee's feeling that this is tied to the Hatch Act, could you help me to understand what position the State would be in, should the Hatch Act by the federal government be repealed?

SENATOR BOND: Senator Hounsell, it would be my understanding that should the Hatch Act be repealed which I can't conceive of, the State of New Hampshire with its annual sessions would be promptly able to enact legislation to fill the gap.

SENATOR CHANDLER: Senator Bond, isn't it true that there are hundreds of laws that are on the books in Congress and also on the books in New Hampshire?

SENATOR BOND: Yes, I believe so.

SENATOR CHANDLER: Then why did you single out this to save because of the Hatch Act in Congress? Why would that effect what we do here in New Hampshire?

SENATOR BOND: Senator Chandler, I believe that we should enact legislation whether it's a need for legislation. We heard no need for legislation in this area. We were told the federal statute already covers it #1; #2 as one involved in public school education, I know that these are the rules that we follow as far as parental and student rights are concerned. It seemed unnecessary to pass another bill which is already in the statute.

Senator Hounsell moved to substitute Ought to Pass.

SENATOR HOUNSELL: I certainly do appreciate Senator Bond's concern and I know that he endorses by his testimony the intent of both the Hatch amendment and SB 55. I'm pretty certain that the majority of the Senate Education Committee does also. It's with respect to their work and their deliberation on this bill that I stand in support of the current motion for this reason; we do duplicate federal law; the bill before us is a bill that I think is necessary should



the federal government repeal that law. I submit that it is important for us to consider the rights of the parents and their children in all instances and that this bill addressess the ongoing need to be conscious of our duty to allow that type of protection. So I would urge the Senate to vote this bill ought to pass.

SENATOR NELSON: On page two of the bill, protection of students privacy, no student shall be required, is already covered by this. But part of the bill is not only covered by the feds but also in the confidentiality law that no student may be tested for this area without prior written consent. The question is, on the second part of this access to instructional material, is it not within the perview of the local level schools to allow parents in to look at all the material, is it not now possible under local ordinances and local school boards, sir?

SENATOR HOUNSELL: It's my understanding that this bill enhances the right of the parent over the right of the government or the state regardless of the federal, state or local level. So I can't stand in strong support of that.

SENATOR DISNARD: As chairman of the Education Committee with a unanimous vote on the committee with no testimony indicating this as a problem. On page two line 20 and 21, this would be almost impossible to keep abreast of because what is one family of student's interpretation could be another family of student's interpretation. We feel since there is no testimony that we could see problems, testimony was presented quoting the handicapped law as presently on the books, the Hatch Act and other laws, it would just be duplication and was unnecessary.

SENATOR HOUNSELL: Senator Disnard, I couldn't attend the hearing on this for which I sort of owe an apology, but not really because I was quite busy. The testimony that I heard from Senator Bond was that this was a duplication of the Hatch amendment. Are you not saying then that the Hatch amendment is likewise an error of page 2 line 20 and 21?

SENATOR DISNARD: No, I'm not saying that, and nor did I interpret his words as specifically what you are interpreting. The idea that was expressed in the analysis is a duplication of the Hatch Act. Therefore, since there was no testimony given to show that there is a problem, we felt that it should be inexpedient to legislate.

SENATOR HOUNSELL: Then it's my understanding that the analysis is a duplication of the Hatch amendment but the bill perhaps is not?

SENATOR DISNARD: No, that's not my interpretation of what it is. We do not think that this is necessary; it's covered in federal laws that the state practices.

Senator Hounsell requested Roll Call.  
Senator Chandler seconded.

Those in favor: Senators Hounsell, Chandler and Roberge.

Those opposed: Senators Bond, Heath, Hough, Dupont, Disnard, Blaisdell, White, Pressly, Nelson, McLane, Podles, Johnson, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston, Krasker.

3 Yeas

19 Nays

Motion failed

Committee Report Adopted.

SB 91, Establishing a committee to evaluate the foundation aid formula. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: SB 91 establishes a study committee to evaluate the effectiveness of the foundation aid formula. Foundation aid formula, as you recall, was instituted last year and has caused some questions as to the change in fund distribution to the towns. The amendment you will find on page 9. What it does is change the composition of the committee and to change the reporting date from July 1, 1988 to 1989 so that the whole timewise provision of the act will have been in place. We believe that it is a valid concern to study the effectiveness of the formula and urge your support of SB 91.

SENATOR CHANDLER: Senator Bond, isn't there an appropriation with this bill or is the committee going to work for nothing?

SENATOR BOND: Senator Chandler, on page 2, line 14, you find section 2 which covers the study cost of \$50,000 or not to exceed \$50,000 for consulting services.

SENATOR CHANDLER: I thought there might be an appropriation in there, but why wasn't it a FN then?

SENATOR BOND: It's not new money in the bill.

SENATOR WHITE: There are clearly sufficient funds in the post audit budget. I think probably there is an excess of \$500,000 in that particular item and I was going to stand and applaud the sponsors of

this bill for using some of that money. I have used it in the past and it works well. We used \$200,000 last year to put in the new computer at legislative services. It's a good use of excess money in that particular area.

### AMENDMENT TO SB 91

Amend the bill by replacing paragraph I of section 1 with the following:

I. There is hereby established a committee to be composed of the following persons:

(a) one member of the senate to be appointed by the president of the senate;

(b) one member of the house of representatives to be appointed by the speaker of the house;

(c) 2 persons from the public sector to be appointed by the governor;

(d) one person from the state board of education to be appointed by the commissioner of education;

(e) one person appointed by the governor from a list of 3 nominees from the New Hampshire School Boards Association;

(f) one person appointed by the governor from a list of 3 nominees from the New Hampshire School Administrators Association;

(g) one person appointed by the governor from a list of 3 nominees from the National Education Association of New Hampshire;

(h) one person appointed by the governor from a list of 3 nominees from the American Federation of Teachers.

Amend the bill by replacing paragraph III of section 1 with the following:

III. The committee shall set the criteria for studying the effectiveness of the foundation aid formula contained in RSA 198:27-33. Upon establishing the criteria, the committee, with the assistance of the legislative budget assistant, shall hire an independent consultant to review, study, and report on the effectiveness of the foundation aid formula contained in RSA 198:27-33, and also to study the effect, if any, of the formula on the quality of education provided by the school districts. The consultant shall submit a report by July 1, 1989, to the governor, the executive council, the speaker of the house of representatives, and the president of the senate.

Amendment Adopted. Referred to Finance under Rule #24.

SB 217-FN, Relative to school administrative units. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: SB 217-FN was put in by Senator Johnson to address any concerns that arose in the SAU study of the last term. Most of the recommendations from the study committee can be instituted by rule by the commissioner of education and it was a recommendation upon the completion of the report that that be done. However, within the statute presently, there is a limit on the number of school administrative units that the Department of Education can establish. The bill called for 75. The amendment which you will find on page 11, removes any reference to number at all, since we found that there was no advantage to having a restrictive cap on the number of SAU's. We urge your support.

#### AMENDMENT TO SB 217-FN

Amend RSA 186:11, I, as inserted by section 1 of the bill by replacing it with the following:

I. School Administrative Units. Combine the several school districts in the state into [not more than 60] school administrative units consisting of one or more school districts. Such school administrative units legally organized shall be corporations, with power to sue and be sued, to hold and dispose of real and personal property for the establishment of facilities for administration and any instructional purposes, and to make necessary contracts in relation to any function of the corporation; provided, however, that such school administrative units shall not have the power to procure land, to construct or purchase buildings, to borrow money in order to purchase real estate, or to mortgage said real estate. In forming such school administrative units the state board shall continue the school administrative units theretofore formed, when that is the reasonable thing to do, and shall dissolve school administrative units and form new school administrative units when it finds that such an action promotes the best interests of the schools.

Amendment Adopted. Referred to Finance under Rule #24.

SB 118, Relative to rate setting for special education and the division for children and youth. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: This bill essentially says that the two divisions of the state, division of special education and the division for

children and welfare will no longer establish the rates, but the providers will establish the rates. We felt that was inappropriate.

Adopted.

SB 167-FN, Allowing permanently and totally disabled veterans to take courses at any state technical institute or vocational technical college at no charge. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: SB 167-FN allows permanently and totally disabled veterans to take courses at any state technical institute or vocational technical college at no charge. It's interesting to note that one veteran appeared at this hearing. One person spoke for it, a Mr. Fletcher, which was the only testimony offered and the committee felt that there were already laws and regulations on the books to cover this issue.

Adopted.

SB 216-FN, Establishing a fire standards and training council within the department of postsecondary vocational-technical education. Inexpedient to Legislate. Senator Bond for the Committee.

SENATOR BOND: SB 216-FN establishing a fire standards and training council within the department of postsecondary vocational-technical education, is a bill which I have worked on each of my terms here. It became very apparent in the hearing this time, that it was not a meeting of the minds between them. Various functions; the fire service and the postsecondary vocational-technical education commission, said that it was not a timely effort this year. So we would urge you to find this inexpedient to legislate.

Adopted.

SB 130-FN-A, An act relative to the trust fund for the prevention of child abuse and neglect. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: SB 130-FN-A renames the fund from "The Childrens Trust Fund" to "The Fund for the Prevention of Child Abuse and Neglect". The new title will provide a more specific description of the purpose of the fund. It also changes the place of the fund from "The Department of Justice" to "The New Hampshire Charitable Fund". The Attorney General, with the assistance of the



Director of the Division for Children and Youth Services, will still have responsibility for soliciting funds. The bill also provides that an administrative charge will be made against the fund, it provides that the administrative charge may be comparable to that charged by other funds administered by the New Hampshire Charitable Fund. It is subject to negotiation with the Attorney General. It also extends to July 1, 1990 the time in which the funds and the trust funds reserve account lapse and this provides a five year period in which to collect the pledges of the contributions. It also extends the time for appropriating the second \$500,000 to June 30, 1989 and this will provide the fund raiser with sufficient time in which to raise the money. The amendment in your calendar appropriates \$115,000 for the administrative expenses of solicitation the cost of raising that \$1,000,000. Last year as you remember it was HB 504 and no funds were raised. I would urge you to support this bill.

SENATOR DUPONT: Senator Podles, I apologize not being able to be at the hearing when this bill was heard in Finance. I'm a little unclear under the amendment, section 9, \$115,000 that we're appropriating, it isn't the appropriation and it isn't the money. How is the Attorney General going to use that, because it says that the administrative expenses for soliciting money, it isn't specific as to whether he is going to hire somebody or exactly what the money will be used for?

SENATOR PODLES: The New Hampshire Charitable Trust will go after the money. But you still have to have some kind of administrative cost of papers, pencils or whatever to start that. That \$115,000 will be for the administrative expenses. You need secretaries and what not. Somebody who will follow that.

SENATOR DUPONT: Senator, how much is in the fund at the present time?

SENATOR PODLES: We don't have anything in the fund. The only money that is there is over \$2,000 from the Senators and that's all that's there.

SENATOR DUPONT: The \$115,000 is going to be used specifically for what? To raise more money or to earn offers and raise more money?

SENATOR PODLES: I have to say for administrative purposes. We did have a meeting with the Attorney General and this is what they came up with. It would be for the New Hampshire Charitable Trust to start this type of fund raiser.

SENATOR DUPONT: Does this also appropriate another \$500,000 to be put in a fund that if we raise another \$500,000 on top of the \$500,000 that is already set aside?

SENATOR PODLES: The first thing that it does is appropriate \$500,000 to establish the trust fund. The second \$500,000 that it appropriates, we have to match. The New Hampshire Charitable Trust Fund would have to go after that money and we can't get that \$500,000 until we match it.

SENATOR PRESTON: I would just like to say that looking at the sponsor for this bill, it must be an excellent bill. We really all failed when this bill passed in the last session. Senator Podles and myself have talked with some professional organizations, particular members of the Public Relations Association of New Hampshire. I think it's a Yankee chapter. They asked if they could do anything in a civic manner for the State. We called upon them to see if they might work with the Charitable Trust to go out and raise monies for this. This is a unique mechanism for funding, we are going to stay with it to put some pressure on professional associations to go out and raise the monies who'll address this bill. It's too bad we had to come in and ask for an extension, but be assured that if some of the big business people in this State, like Senators Dupont and Blaisdell, kick in more money, we will have this up and running.

SENATOR JOHNSON: Senator Preston, following up on Senator Dupont's question about the \$115,000, will that be a grant from the Public Relations Association as to cover some of their out-of-pocket expenses for the fund raising effort?

SENATOR PRESTON: Ought to cover, I would say Senator.

SENATOR JOHNSON: I still haven't gotten a clear answer as to who would be the recipient to the \$115,000?

SENATOR PRESTON: I think it would be handled through the New Hampshire Charitable Trust within the Attorney General's office.

SENATOR PRESSLY: Senator Podles, being a strong supporter of cooperation between government and private, both for profit and non-profit agencies, I'm quite suprised and pleased. I would like to know that if this in fact is the precedent-setting legislation of new cooperation between government and a non-profit, such as The New Hampshire Charitable Fund. Is this, in fact, a new effort and if it is

could you tell us a little bit about the relationship that has been agreed to with the New Hampshire Charitable Fund.

SENATOR PODLES: The New Hampshire Charitable Fund, as you know, does go out and solicit money. They have the staff and they will do this. When we met in committee and we do have a committee on this trust fund, those of us that are on the committee are not professional money raisers. The New Hampshire Charitable Trust Fund are professionals, they have done it before, so this is what they are going to do. Of course, they have to be paid. We are appropriating \$115,000. That will be set up in the Attorney General's office. It is for his expenses and this is what we decided on. This is what the bill calls for.

SENATOR PRESSLY: I am a great fan of the New Hampshire Charitable Trust Fund. My question is, is this the first time that the State of New Hampshire has successfully entered into cooperation with the New Hampshire Charitable Trust Fund?

SENATOR PODLES: Yes, this is a very unique idea and it is the first time.

SENATOR PRESSLY: And its precedent setting. Thank you, I commend that report.

SENATOR CHANDLER: Senator Podles, I understand the purpose of this trust fund is to prevent child abuse and neglect. How is raising \$500,000 going to prevent child abuse and neglect?

SENATOR PODLES: Programs are going to be set up for the prevention of child abuse and neglect. There will be non-profit agencies that will come in and request funding from this trust fund. They must also match the funds, either that or have in-kind services.

SENATOR CHANDLER: Do you think that even if we raised \$500,000,000 we could stop child abuse and neglect?

SENATOR WHITE: Senator Podles, I just wondered how you came up with the figure of \$115,000? That's 11-1/2 % I wonder if that isn't just a little to high?

SENATOR PODLES: Senator White, the committee met and, at that time, it was Kim Zachos, the attorney, and he does have something to do with the New Hampshire Charitable Trust. There was the attorney general and other attorneys and they have decided that

this is what they would need, \$115,000. If there is money left over, then it would be returned. They did want \$115,000 and this is what this bill is asking for.

SENATOR WHITE: You said something about in-kind contributions?

SENATOR PODLES: That was in HB 504.

SENATOR WHITE: But was eliminated?

SENATOR PODLES: No, it was not eliminated, it is still there. That is when the agencies come in and request money of the fund. That will take about five years before any money is actually solicited.

#### AMENDMENT TO SB 130-FN-A

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to the trust fund for the prevention of child abuse and neglect, and making an appropriation therefor.

Amend the bill by replacing all after section 3 with the following:

4 Trust Fund. RSA 169-C:39-c, I is repealed and reenacted to read as follows:

I. There is hereby established in the New Hampshire Charitable Fund a special fund to be known as the trust fund for the prevention of child abuse and neglect. The sole purpose of the fund shall be to make regular payments of interest as defined in RSA 169-C:39-b, VI to the New Hampshire child abuse trust fund board for programs as defined in RSA 169-C:39-b, IV, and said moneys shall not be available for any other purpose. The trust fund established in this paragraph shall be held and administered as a component fund of the New Hampshire Charitable Fund, subject to its articles of agreement and bylaws, except that no change in the purpose of the fund as stated in the preceding sentence shall be made without an amendment to this chapter. The New Hampshire Charitable Fund shall provide an annual accounting of the trust fund to the board. The attorney general, with the assistance of the director of the division for children and youth services, shall have the responsibility of soliciting moneys from sources other than the general fund, including

federal moneys. The attorney general shall deposit any moneys received as a result of solicitation into the trust fund for the prevention of child abuse and neglect. The attorney general may request that the New Hampshire Charitable Fund assist him or his designee in connection with the solicitation of moneys from sources other than the general fund. The New Hampshire Charitable Fund shall be entitled to make an administrative charge against the trust fund for the prevention of child abuse and neglect for investment services and administrative services in an amount comparable to that charged to other funds administered by the New Hampshire Charitable Fund, subject to negotiation between the New Hampshire Charitable Fund and the attorney general. Such administrative charge shall be in addition to the administrative expenses payable under RSA 169-C:39-c, IV.

5 Annual Accounting of Fund. Amend RSA 169-C:39-e, V to read as follows:

V. Report annually on the effectiveness of the grant program and provide an annual accounting of the fund to the speaker of the house, the senate president, and the governor.

6 Successor New Hampshire Charitable Fund. Amend RSA 169-C by inserting after section 39-h the following new section:

169-C:39-i Successor or Replacement of New Hampshire Charitable Fund. References in this subdivision to the New Hampshire Charitable Fund shall include any successor to such fund. The New Hampshire Charitable Fund may resign from the obligations imposed on it under this subdivision by paying over all funds held by it under this subdivision to the state treasurer, together with an accounting thereof. Upon such payment, the New Hampshire Charitable Fund shall be relieved of all further obligations with respect to the trust fund for the prevention of child abuse and neglect.

7 Extension of Time. Amend 1986, 184:2, I (a) to read as follows:

(a) The sum of \$500,000 to the trust fund reserve account established in RSA 169-C:39-c, II. These funds shall not lapse [for a period of 3 years after the effective date of the act,] until July 1, 1992, at which time the moneys remaining in the trust fund reserve account shall lapse to the general fund, RSA 169-C:39-c, II notwithstanding.

8 Extension of Appropriation. Amend 1986, 184:2, II (a) to read as follows:



II. (a) If the sum of \$500,000 appropriated by paragraph I (a) of this section is matched by non-state contributions or pledged contributions by June 30, [1987] 1989, an additional \$500,000 shall be appropriated by the general court to the trust fund reserve account no later than June 30, [1987] 1989. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

9 Appropriation. The sum of \$115,000 is hereby appropriated for the biennium ending June 30, 1989, to the attorney general for the administrative expenses of soliciting moneys for the trust fund for the prevention of child abuse and neglect. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

10 Effective Date. This act shall take effect June 30, 1987.

Amendment Adopted. Ordered to Third Reading

SB 214, Relative to the allocation of the state's tax exempt private activity bond limit. Ought to Pass. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: The analysis of this SB 214 really speaks to the bill. It brings in compliance the requirements of the federal tax reformat of 1986. We had three people testify in favor of the bill, Vasilike Kounas from the Industrial Development Authority, Paul McQuade from the New Hampshire Finance Authority and, of course, the State Treasurer, Georgie Thomas. No one testified against the bill. As I said it, is a housekeeping measure due to the new federal tax laws.

Adopted. Ordered to Third Reading.

SB 203-FN, Relative to fees for business entities registered or exempted under the securities law and to limitations on the exemption for small issues of securities. Inexpedient to Legislate. Senator Bond for the Committee.

SENATOR BOND: SB 203 is relative to fees for business entities registered or exempted under the securities laws. After a good hearing by the committee it was determined that it was not appropriate legislation and we urge your voting inexpedient to legislate.

Adopted.

SB 21, An act relative to administrative inspection warrants. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: There was testimony that this bill was a request from the State Fire Marshal's Department. It was a recommendation of the committee unanimously that there be an amendment to reflect the fact that it is only for the fire department. The initial bill did, in our opinion, seem to branch out and to give this power to other departments, which we felt was quite dangerous. We felt that there were certainly times that a person trained in the various fire departments should have, through the warrant process through going through a judge, should have access to buildings for the purpose of fire inspections. It was also brought out that this does not apply to private residences and the amendment gives this power and authority only to fire departments. We felt it was a very worthwhile piece of legislation and we feel that it will benefit all cities and towns and will help many of the buildings that require that they do meet the fire safety codes set forth by the local municipality. The committee considers it very positive legislation.

#### AMENDMENT TO SB 21

Amend the bill by replacing all after the enacting clause with the following:

1 Definition; Inspection Warrant. Amend RSA 595-B:1 to read as follows:

595-B:1 Definition. An inspection warrant shall be a written order in the name of the state, signed by a justice, associate justice or special justice of any municipal, district or superior court, directed to an official or employee of a state agency or municipal fire department, commanding him to conduct any inspection, testing or sampling required or specifically authorized by state law or administrative rule.

2 Requirements for Issue. Amend RSA 595-B:2, I to read as follows:

I. An inspection warrant shall be issued only upon the request of an official or employee of a state agency or municipal fire department and only upon a showing of probable cause supported by affidavit. The affidavit shall particularly describe the place, dwelling, structure, premises, vehicle or records to be inspected and the purpose for which the inspection is to be made. In addition, if testing or

sampling is requested, the affidavit shall describe the time and manner of such testing or sampling. In all cases, the affidavit shall contain either a statement that the consent to inspect has been sought and refused, or facts or circumstances reasonably justifying the failure to seek such consent.

3 Conduct of Inspection; Notice. Amend RSA 595-B:5 to read as follows:

595-B:5 Conduct of Inspection; Notice. An inspection, testing or sampling pursuant to a warrant issued under this chapter shall not be made between 6:00 p.m. of any day and 8:00 a.m. of the succeeding day, unless specifically authorized by the person issuing such warrant upon a showing that such authority is reasonably necessary to effectuate the purpose of the law or rule being enforced. An inspection pursuant to a warrant shall not be made by means of forcible entry, except that the person issuing such warrant may expressly authorize a forcible entry when facts are shown sufficient to suggest a probable violation of a state law or rule, which, if such violation existed, would present an immediate threat to public health or safety, or when facts are shown which establish that reasonable attempts to serve a previous warrant have been unsuccessful. Notwithstanding any law to the contrary, an official or employee of a state agency or municipal fire department executing an inspection warrant may be accompanied by suitable assistants, including a sheriff or his deputy, any state police officer, or any constable or police officer of any city or town.

4 Executions and Samples. Amend RSA 595-B:6 to read as follows:

595-B:6 Receipt for Samples; Inventory and Return. An official employee of a state agency or municipal fire department executing an inspection warrant shall give a copy of the warrant to the person owning or occupying the particular place, dwelling, structure, premises, vehicle or records which are the subject of the warrant, or in the absence of such person, the official or employee shall leave a copy of the warrant at the place, dwelling, structure, premises or vehicle where the inspection is made. In addition, if an official or employee of a state agency or municipal fire department takes samples under an inspection warrant, he shall give to the person from whom, or from whose premises, the samples were taken a receipt for the samples taken, or shall leave the receipt at the place from which the samples were taken. The return shall be made promptly and shall be accompanied by a written inventory of any samples taken.

The justice of a court of record shall attach to the warrant a copy of the return, inventory and all other papers in connection therewith and shall file them with a clerk of the court to which the warrant is returnable.

5 Limitations Changed. Amend RSA 595-B:9 to read as follows:

595-B:9 Application Limited. This chapter shall not apply to the application for warrants by personnel within the [departments] department of fish and game [and safety] and the division of state police, and shall in no way affect the issuance of warrants at the request of persons within [either] the department or division under other provisions of law.

6 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

SB 184-FN, Relative to medical assistance for the categorically needy. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: The sponsor came in and asked if this bill be withdrawn and therefore, it is inexpedient to legislate.

Adopted.

SB 206-FN, An act providing for special number plates for organizations serving persons with walking disabilities. Interim Study. Senator Preston for the Committee.

SENATOR PRESTON: At the request of the sponsor, I will move to lay this bill on the table.

Adopted.

SB 213-FN, An act relative to utility relocation assistance. Inexpedient to Legislate. Senator Preston for the Committee.

Senator Blaisdell moved to lay the bill on the table.

Adopted.

SB 156, An act relative to the highway construction and reconstruction programs. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: The interest on this legislation was to clarify the priorities and the system of procedure, which the Department of Transportation set and did carry forth their projects. It has been perceived by me, and I think many other members, that there is a great deal of confusion and frustration at the local levels. Local municipalities and governing bodies are having a very difficult time making their own local highway decisions, because the state doesn't seem to be able to follow through or let them know in a timely fashion what their priorities are. It also means that projects not be held captive to the potential of future changes. However, after discussion on the committee we felt that these concerns could be handled through the study committee that has already been established by this body and it has been sent to the House for approval, with the understanding that these concerns will, in fact, be part of a partial of the study committee that was formed by legislation sponsored by Senator Bartlett. The committee felt that inexpedient to legislate was an appropriate disposal of this legislation since it will be addressed in another study committee.

Adopted.

SB 159, An act relative to the regulation of gasoline franchises. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: SB 159 is an extension of legislation passed by the previous legislature. The title is a little bit misleading in regards to regulation of gasoline franchises. What SB 159 does, in fact, is to expand certain definitions. One definition of dealer is the commission agent and the most important aspect is to change the definition of supplier to include jobbers. It turns out in the testimony that jobbers currently exercise a good deal of influence over the station operators. They safely control their hours of operation and the survivorship. The provision that we passed previously would now apply to jobbers. We received testimony that the jobbers do indeed lock in the price of gasoline at the pump and then dictate the method of operation including hours. We're really including definition of jobber now as a supplier in mind of what we previously passed.

The amendment has to do with line 4 on page 2. We were told that the attempt to change the word "may" to "shall" really came from one of the lawyers that was involved in this, and we were further told that if we allowed it to remain "shall", that that would indeed



encourage lawyers to continue litigation and prolong settlements. So we recommend that we maintain the language "may" and adopt the basics of the bill.

SENATOR BOND: It seems an opportune time to bring up an objection that has been brought up to me by several attorneys. That is that when you establish a 60 day effective date on a piece of legislation, an attorney representing a client may very well not know what the statute is. In this case I don't know whether it is that critical or not, but it is something to consider in terms of establishing a 60 day effective date on a piece of legislation.

#### AMENDMENT TO SB 159

Amend the bill by replacing all after section 3 with the following:

4 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

SB 205, An act transferring the administrative authority for bingo. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: SB 205 is an agreed on bill. Both the Department of Safety and Sweepstakes Commission decided that it would be better to have the administrative authority transferred from Sweepstakes to the Department of Safety. Which is just a much more efficient way of doing things and the committee agreed.

SENATOR WHITE: Senator Roberge, we sometimes have problems with one agency vote for setting up the law and then enforcing the law and that's basically what this bill would be doing, and I wonder if you have any comment on that?

SENATOR ROBERGE: Yes, I'd like to do that. Because Skip Jones came to the committee hearing and with the Department of Safety having already enforced them, they felt that having Sweepstakes in the enforcement end of it was just duplication of that representation. So that's why each side of enforcement for the Sweepstakes would be handled by safety from the last term, I believe. This just kind of increases and Skip Jones felt that this would be a much more efficient way in handling this certain administrative practices and the Department of Safety was going to take a lot. Since they were both in agreement, we did see that it would be a good idea.

SENATOR WHITE: Does the safety have any expertise in administering anything like that?

SENATOR ROBERGE: Of course they do in enforcement.

SENATOR WHITE: I don't have any problem with enforcement, but that was why we separated it out last time around, so that one department would do enforcement and the other department would do the administrative section. I just wondered now that we got it out of bingo, why are we trying to put it back together again?

SENATOR ROBERGE: The intent of this bill is not to put it back together again, we are putting it back in the same department. That's all I'm saying.

SENATOR WHITE: I'm sorry I don't understand. Originally everything goes in Sweepstakes. We felt that it would be better to have Safety do the law enforcement, by separating those who set up the laws and those who enforce the laws.

SENATOR ROBERGE: We haven't changed that.

SENATOR WHITE: According to the way I read it, now Safety is administering the bingo law?

SENATOR ROBERGE: The licensing.

SENATOR WHITE: They license on one hand and pick up violators on the other. I wonder why you are bringing those two back together again when we felt it's better to have one agency license and another agency enforce the licensing?

SENATOR ROBERGE: I see what you are saying. The committee just felt, based on the testimony, that those two functions would be better handled by safety, and the Sweepstakes agreed.

SENATOR WHITE: In fact, Sweepstakes was originally the originator of this bill. Where will the revenue be going?

SENATOR ROBERGE: It stays in Sweepstakes.

SENATOR DUPONT: As the members can see, I co-sponsored this with Senator Blaisdell. It came about not as a result of a request of the Department of Safety, but as request from the Sweepstakes Commission. Any of you that are familiar with the issue of bingo in the state know that it's been somewhat of an itemed to both adminis-

ter and to enforce. It was felt over at Sweepstakes that the ability for them to do the type job and licensing just is not there at the present time and they felt that it more appropriately belonged with the Department of Safety. It's such, and I hate to use the word, animal to deal with, but at the present time I don't know if you will find any volunteers anywhere else in the State Government to take on this task. Seeing as we were fortunate enough to get the Division of Safety Services to take over the enforcement part of it with the help of Skip Jones, we arrived at the most appropriate place for it to go and it would be over to Safety Services. It is a real tough issue and its a tough one to deal with and there needs to be a lot of work done in this area. Unfortunately or fortunately, this is where we felt that it should go. I wish the Department of Safety good luck because it is a tough one and thats basically the reasoning behind why it is taking place.

SENATOR BLAISDELL: I rise in support of it. This is the last thing we will be doing; we have been going over it for a long time. I think we got bingo people together now. Very few complaints as you hear. Senator White knows the revenue will not come out of Sweepstakes; it will stay in Sweepstakes. But this is the last recommendation. We sat on the Study Committee. I think Senator Podles over the years and myself have done more to straighten out the bingo laws than anything else. I think we got it straightened out now. This is the last thing that we should do is bring the records together at the Department of Safety and the enforcement together. I think it is the best way to go and I hope you vote for the bill.

SENATOR NELSON: Senator Blaisdell, at the risk of sounding redundant, I would just like to ask you again what was the rationale for shipping the administration to the same department as the enforcement?

SENATOR BLAISDELL: Well, because the records would be there in the Department of Safety. As you know Senator Nelson, and I'm sure when you were in the House you knew the problems that we had with bingo, as I said, I believe this is also a recommendation of the sunset to bring these things together. Thats all I can tell you. It's a very tough problem and we felt that this would be in the best interest of the people of the State of New Hampshire to pull together.

SENATOR HEATH: Senator Blaisdell, I have two informational questions. One is, two Senators who testified on this said that it was a request of the Department of Sweepstakes? The bill says the Department of Safety?

SENATOR BLAISDELL: That's true, we should have brought that out in the testimony, Senator Heath. That's a misprint, it wasn't the recommendation of the Sweepstakes, it was the Department of Safety.

SENATOR HEATH: Second question also informational. What has happened to lucky seven rules enforcement? Has that gone along with the Bingo?

SENATOR BLAISDELL: No Senator, that's still in Sweepstakes. We've done, as you know, a lot of work on that.

SENATOR BOND: Senator Blaisdell, will this involve any transfer of personnel or budget for Safety?

SENATOR BLAISDELL: I think the budget of the people will be transferred to the Department of Safety. Yes, that's true.

#### AMENDMENT TO SB 205

Amend the bill by replacing section 11 with the following:

11 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Ordered to Third Reading.

SB 207-FN, An act relative to the funding of catastrophic illness from taxes on tobacco products. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: SB 207-FN directs the State Treasurer to distribute one half of one cent on the tax imposed on tobacco products to catastrophic aid. We felt this was very appropriate. One of the largest groups of people that need catastrophic aid are cancer patients. We felt there was certain poetic justice in having monies go from the tobacco products tax to catastrophic aid.

SENATOR CHANDLER: Senator Roberge, was there any consideration given by the Ways and Means Committee to increasing the tax on tobacco?

SENATOR ROBERGE: Yes there was, but we felt that we didn't feel comfortable doing it at this time. I understand exactly what you

are saying and there is a number of us who felt very strongly about that, but we felt that we really didn't feel comfortable increasing the tax tobacco products as to afford cigarettes.

SENATOR CHANDLER: For what reason didn't you want to increase the tax?

SENATOR ROBERGE: To be perfectly honest, the New Hampshire Cancer Society came to me and asked to sponsor this bill. They were comfortable with the amount of monies that would be raised just by doing this. It's enough of an increase. They wanted to make absolutely sure that this bill would pass by doing it this way.

SENATOR NELSON: Senator Roberge, what is the catastrophic illness costing now in the State, do you know?

SENATOR ROBERGE: They have appropriation of \$250,000 a year. This would add another \$158,000 to that. The bill says that they don't pay for all of the expenses of these people having very very costly illnesses. But they are able to help out in many ways. That's why we feel very strongly that we would like to increase the aid. It's a very worthy cause. We felt that this was an increase that would be very acceptable.

SENATOR NELSON: Do you know, Senator Roberge, how many people are now being serviced with Catastrophic funding in the state?

SENATOR ROBERGE: No I don't.

SENATOR JOHNSON: Senator Roberge, would you believe that I commend you for sponsoring this important piece of legislation?

SENATOR ROBERGE: Senator Johnson, I know you do.

SENATOR JOHNSON: Would you believe also, that I would commend you even farther if you come back the next time and you sponsor this, that I would be glad to co-sponsor and increase the tobacco tax for the purpose of providing some service to those people who have cancer and other related diseases resulting from tobacco?

SENATOR ROBERGE: I would agree with you Senator. I think there is a certain poetic justice to that.

SENATOR HEATH: I think I can offer an explanation about cigarette tax increases, when it's a penny or two above Vermont, we lost a lot of revenue. It's a highly competitive item and there is a black



market that in the federal government has testified and on some number of occasions that exist where people buy New Hampshire properly stamped tobacco and take it and sell it on the streets of New York. There is black market in other areas and New York, because of their high tax, is one of the places that the New Hampshire stamped cigarettes end up. In addition, we lose out-of-state sales on tobacco the minute we raise that level above Vermont or Massachusetts or even match them in some cases. We would actually lose revenue if we were to increase tobacco tax. To do that, as much as we have entered the prohibition era on tobacco, revenue wise it would be unwise to move it up.

SENATOR CHANDLER: Senator Heath, would you believe that I would like to see the selling of tobacco outlawed altogether in the State of New Hampshire and save lives instead of saving revenue?

SENATOR HEATH: Senator Chandler, if we outlawed everything that took lives we would be walking to work.

Adopted. Ordered to Third Reading.

SB 221-FN, An act relative to the due date for the meals and rooms tax return. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: All this bill does is simply to the rooms and meals tax people, that pay the rooms and meals tax, have to pay on the 15th day of the month. If the postmark is on the 15th day of the month, for a month that we have a holiday like on a Monday, Department of Revenue receives it on a Monday if it is stamped on the 15th you are all right. Actually, it is just extending it one day. It just appears no conflict to the media, so I thought of just taking rule #42, to avoid even an appearance of a conflict.

Adopted. Ordered to Third Reading.

## RECONSIDERATION

Senator Preston moved reconsideration on CACR 12, Meetings of the General Court.

SENATOR PRESTON: If you recall just over a week ago, we debated the concurrent resolution regarding annual planning of sessions. In my infinite sense of fairness, I switched my vote to give every Senator the opportunity to be present and vote of such an important issue and at this time the motion to reconsider, I would urge my colleagues to vote yes.

SENATOR DISNARD: To the members of the Senate especially Senator Preston, I used to believe that was blind, I use to believe that was wet, but I'm so disappointed especially with our patience here today, that the Minority Leader is about to indicate how to disinform the State except to not know what they were doing. All of the news media in this state carried the vote that you indicated a week ago, that the Senate approved of not returning or recommending biennial sessions. Now what you are saying is that you out of fairness to us, wish to urge everyone to have another vote. I'm feeling really concerned that you would do something like that, especially as a Minority Leader. The parliamentary procedure, how many votes would be needed to have this passed?

CHAIR: Just a majority vote of reconsideration.

SENATOR MCLANE: Senator Preston, did you want me to vote for this bill right here?

SENATOR PRESTON: I'm not asking about any bill at the appropriate time. Senator I don't know what the object is that you are holding up here. I would urge that you vote for the motion before you at this time.

SENATOR MCLANE: If I disagreed would I vote no at this time?

Division vote was called by the chair.

15 Yeas

8 Nays

Motion Adopted

SENATOR BLAISDELL: I will be very brief. A long time ago in this Senate, there was a Senator from the north country who is no longer with us, his name was Senator Laurier Lamontagne, he taught me a great lesson. I got up one of those days on the Senate floor and I started to cry about a bill that he was putting through, and I cried and I cried and I cried. I asked him at the end, I said, "How, Senator Lamontagne, can you do what you are going to do to the great people of the State of New Hampshire?" As I look at you, Senator Preston, standing up the same way as, God rest his soul, Loggie use to do with his arms folded like that, he says "it's very simple, Senator, I got the votes".

SENATOR PRESTON: Just very briefly, this isn't a question of partisanship, be republicans or democrats. It isn't a question of friendship. It's a philosophical question how you feel about a citizen legislature and I urge your support.

Question: Ordered to Third Reading

Senator Blaisdell requested Roll Call.

Senator Hough seconded.

Those in favor: Senators Hounsell, Heath, Freese, Dupont, Chandler, Roberge, White, Podles, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston.

Those opposed: Senators Bond, Hough, Disnard, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Johnson, Krasker.

14 Yeas

10 Nays

Motion failed - 3/5ths vote necessary for passage.

Senator Hough moved reconsideration on SB 148, relative to procedures for distribution of certain federal funds allocated to the state.

SENATOR HOUGH: Having voted with the prevailing side, wherein you reported SB 148 inexpedient to legislate, I now move for reconsideration and request that you vote yes.

SENATOR DUPONT: Senator Hough, could you give us in as few words as possible, your reasons why you would like this reconsidered. I'm not clear. I thought there was a fairly decent explanation as to why we voted the way we did last time and it didn't cause any controversy. I would just like to have a better understanding as to your need for reconsideration?

SENATOR HOUGH: The honest answer, Senator Dupont, was that at the time this bill and its committee report of inexpedient to legislate was approved by a voice vote by this body, I was sitting on that couch over there not paying attention to this bill. I found it had already moved onto the calendar before I had a chance to move on it. With all fairness it got by me and I would like a chance to speak and vote on it.

SENATOR CHANDLER: Senator Hough, did you vote with the majority?

SENATOR HOUGH: Yes I did, voice vote.

SENATOR CHANDLER: If you were sleeping over on the couch, how did you get to vote?

SENATOR HOUGH: I didn't say that I was sleeping. I wasn't paying attention to the calendar as it was moving along and I'm telling you that I was voting with the prevailing side and I now wish to reconsider.

SENATOR PRESSLY: I was not sitting in that chair and I was not asleep. However, I do think that this is a significant piece of legislation that possibly did not get the full attention that it should. I too, in reflection at the end of the day, realized that this is really quite important and I do support the legislature having an overview over of this amount of money. Therefor, I do think that a reconsideration and further debate on the issue is of value.

SENATOR DUPONT: I rise to speak against the motion of reconsideration. I somehow got the impression from what has been said here today, that somehow the Executive Department Committee chaired by the Honorable President of the Senate hasn't done their homework on this bill. Believe me, we did hear some testimony on it. It wasn't a bill like I said earlier, that created a great amount of controversy and I would like to just draw attention to the fact that these energy overcharged funds are probably in the future going to be very, very limited and we're probably looking at something here that really isn't going to effect the state, as a result of this issue, I've already gotten here have already been dedicated to be spent and really isn't going to be an issue that we're going to have an opportunity to address that much in the future. I would just like to bring that to the attention of the members of the Senate and urge that they vote down the motion of reconsideration.

SENATOR WHITE: Senator Dupont, do you remember the vote from committee?

SENATOR DUPONT: Off the top of my head, no.

SENATOR BLAISDELL: Senator Dupont, for one since I have been in the legislature with you, you've always defended the right of the legislature to oversee funds, you've always had a lot of energy on that. I can't understand why you wouldn't want us to take a look at how energy overcharged funds shall be expended and to no energy overcharged funds shall be expended until specifically appropriated by the general court, which is you and I.

SENATOR DUPONT: Senator, I don't have any problem with the legislature doing that, I really don't. I don't think we had anybody, to the best of my recollection, that came in and testified in strong sup-

port of this bill and nobody brought in any indication to us that there had been any abuses. I guess there is a hearing process as there presently is defined as to how these monies are spent now. I don't have any strong feeling about it either way, I've had no conversation with the Executive Branch or even the Departments that are involved in this, so I don't think they have any opposition to it to the best of my knowledge. It just seemed to me that because the majority of the monies have already come into the state that we really don't have a need to address the issue. I certainly respect your opinion for that to be done. Maybe if you could clarify for me what the abuses have been, I might feel differently.

SENATOR BLAISDELL: I would like to answer that if I could Senator. I don't think probably there have been abuses, but it has always been my thought for the nine terms that I have been here, that the legislature appropriates. We have guarded that over the years. I just can't see why you wouldn't want to have the legislature take a shot at looking at any funds that are expended. I think that's a function that we have and should protect. That's the only reason I stand up for the bill and put my name on it along with Representative Lamott and Representative Densmore and Senator Preston.

SENATOR HOUNSELL: I think as chairman of the Development, Recreation and Environment Committee that I might be able to bring some enlightenment to the discussion today because of a bill that we heard. I do rise in support of reconsideration and the passage. I'll say so because of a hearing that we had today on a bill that addressed a very big problem that we have in this state and that is a problem of coming up with a fair means of cleaning up our spills and cleaning up some of the problems that we have with oil tanks. I don't know exactly how we can solve this, but I think that if the General Court as it is attempting to handle this problem, were aware at least of available funds that at a future date it would be a need to our benefit. I think enough information has even come about as lately as today, we should pass this and act favorably at this time.

SENATOR HOUGH: I would like to speak to my motion of reconsideration. I've indicated to you the reasons why I would like an opportunity to have this before us and I would like to have an opportunity to speak to this bill. I'm asking that you allow me the opportunity. I've indicated to you the reasons why I want this consideration, if you will, and I will promise you that I will be more attentive in the future and you allow me the opportunity to have this before us once again so that we can speak to it.



Reconsideration Adopted.

SENATOR HOUGH: I now wish to substitute the motion of ought to pass and to speak on it. Again you have before you now SB 148 with the motion of ought to pass. It's very clear and my intent and the intent of others that will speak is that as a principle of government, the legislative body is responsible for generating revenues and appropriating funds. There has been a history of legislative accountability and oversight in regards to the public funds in this state. I think back in the early and mid 70's when we had a great infusion of federal monies and federal grants coming into the state and there were specific instances where prior administrations wherein programs were established, levels of support were established outside of the legislative process and we found instances along the way where levels of support had been curtailed and it ultimately behooved the state, specifically the legislature and its appropriating process, to either pick up or maintain programs that we did not have proper overview and discussion on. Now, this bill addresses itself to a situation that has to do with energy overcharged funds that still remain, but if funds are going to be coming into the State Government and spent by branches of State Government, there should be no question among any one of the 24 of us in this room, the legislature by tradition and by constitution, if you will, should be involved with receipt and expenditures of public funds. This is the genesis of this bill. I feel very strongly about this. I appreciate your affording me the opportunity to have this before us once again and I wish that you would consider very seriously passing this bill. It does nothing other than put the proper branch of government in a responsible position relative to this bill.

Motion adopted.

Question: Ordered to Third Reading

Senator White requested Roll Call

Senator Chandler seconded

Those in favor: Senators Bond, Hounsell, Freese, Hough, Disnard, Roberge, Blaisdell, Pressly, Nelson, McLane, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston and Krasker.

Those opposed: Senators Heath, Dupont, Chandler, White, Charbonneau, Podles, Johnson.

17 Yeas

7 Nays

Adopted. Ordered to Third Reading.

### ANNOUNCEMENTS

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time, and that when we adjourn, we adjourn until Wednesday, March 11, 1987 at 12:30 p.m.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage

SB 233-FN, An act relative to capital budget requests for airports in the state.

SB 51, Relative to airboats, mufflers, and decibel levels of boats.

SB 72, Relative to the industrial development authority and industrial development revenue bonds.

SB 130-FN-A, Relative to the trust fund for the prevention of child abuse and neglect, and making an appropriation therefor.

SB 214, Relative to the allocation of the state's tax exempt private activity bond limit.

SB 21, An act relative to administrative inspection warrants.

SB 159, An act relative to the regulation of gasoline franchises.

SB 205, An act transferring the administrative authority for bingo.

SB 207-FN, An act relative to the funding of catastrophic illness from taxes on tobacco products.

SB 221-FN, An act relative to the due date for the meals and rooms tax return.

Senator Bartlett moved adjournment in honor of Lindsay Beth, born February 26, 1987, the daughter of Senator Edward C. Dupont, Jr. and Andrea M. Dupont.

Adopted.

Adjourned.

### *Wednesday, March 11, 1987*

Senate met at 12:30 p.m.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we thank you for a nice day - despite the cold as we look forward with great anticipation towards Spring! Help us to maintain the community spirit in this State of neighbor to neighbor without any outside interference of those whom we do not know or know us! Hear us Lord.

Amen

Senator McLane led the Pledge of Allegiance.

#### INTRODUCTION OF GUESTS

#### COMMITTEE REPORTS

SB 43-FN, Relative to Regional Banking. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: You have before you SB 43, the Interstate Banking bill. I'm sure it, as a piece of legislation, needs no introduction because it probably is the issue of the session for many of you. Before I get into the process of defending the committee's report I would like to briefly run through a couple of points about the bill. The bill is an affiliation bill that allows New England banks to enter into agreements for affiliation with New Hampshire banks. It has a very, very strong clause in it that allows for the attorney general to

ultimately control when a bank will have to divest of New Hampshire holdings if they affiliate out of the New England area. It is probably one of the strongest, if not the strongest, interstate banking legislative initiatives in the country. The process is very, very simple. A New England bank has to form a New Hampshire holding company in order for it to acquire the stock of an existing New Hampshire bank. Both the bank and the holding company are required by this legislation to execute an enforceable agreement with the banking commissioner and he must provide net new funds to New Hampshire in accordance with the provisions that the banking commissioner lays out. It also, and it's an issue that hasn't been raised, any affiliation will require the Federal Reserve Board also to get involved and also to put the bank through the same type of regulatory process that our banking commissioner would allow.

Once a bank is affiliated under this process, it becomes a New Hampshire bank and it has all the rights and duties of any New Hampshire bank regarding taxation, regulation, investment, branching and acquisition. The committee made a couple of amendments, there are three amendments to be exact, that dealt with the issue of the opt-out provision which made it open-ended and there's been some question about whether or not that was a legal issue for us to get involved in. It is not a legal issue. We have had our Senate counsel take a look at the opt-out provision, check into the constitutionality of that opt-out provision and it's our understanding that this provision is being used in other states and we basically, as a legislature, can provide for an issue such as that to be dealt with within the legislature.

It is a very, very strong bill. It's a bill that I feel very strongly that the committee has done its homework on. We've made some amendments to it in the areas that we felt were appropriate. I'd like to remind you that 30 other states have interstate banking. Our neighbors in Vermont, which is the other New England state that does not have interstate banking, voted last week to approve it in the Senate and it's on its way over to the House. In all the states that we looked at it has been a positive experience. We've got the support of the business community behind us and we think it's an important bill for the State of New Hampshire.

I'd like to address a couple of other issues, from my perspective not so much from the committee's perspective, because I think they are important issues that have been raised and need to be addressed. We heard a lot of talk in the last few weeks about the profit motive, the

windfall profits that the stockholders of these banks are going to realize after this happens. I think what's important to look at is not the fact that these people are going to realize they profit by the sale of their bank but, what's going to happen to New Hampshire after this bill passes. That's the important issue here today, not who's going to make any money on the sale of their stock, but is this going to be good for the State of New Hampshire. The committee and myself firmly believe that this is going to be a good piece of legislation for the State of New Hampshire.

Let's forget for a moment that portion of the bill and look at what banks are going to do after this bill is passed. I've heard some statements that it's going to change the complexion of banking in the State of New Hampshire and it's going to somehow make our banks less responsive to the consumers. You have to remember that a bank is like any other profit directed company. It's not going to do something that's going to cause itself to be less competitive, it's not going to do and make changes in its operating procedures that are going to allow it to let competition come in and take its customers away. What we're really talking about when we talk about the banking industry is an industry that's just like the restaurant industry or any manufacturing concern. They are out there to fill a need in the marketplace and that need is going to generate a profit for them if they do it properly. To think that a bank that's going to come in here and spend a fairly decent amount of money to buy a New Hampshire bank holding company then, all of a sudden, do something that's going to allow it not to be competitive and not to generate a profit for its shareholders is ludicrous. These banks, and New Hampshire banks to a certain degree, are going to continue to provide the services that the consumers in this State need. To think otherwise is really an abuse of what we perceive to be the good management that we've seen by both out-of-state banks and New Hampshire banks. They have a need to fulfill in our communities and that's to provide banking services and they are going to continue to do it whether we have interstate banking or don't have interstate banking. I think the strongest point that can be said is this bill will provide for more competition in the State of New Hampshire among our banks. I firmly believe that the open marketplace has always been the consumer's best friend. The ability for the consumer to go out, look at a wide array of services or goods and decide what's the best value for him and I don't think that the legislature ought to be making that decision by controlling whether or not banks can operate in this State and who's going to operate in this State. So, it's an issue and you can look at it as a consumer issue. This is going to provide more



competition among our banks, not less, and that open marketplace will always work to the benefit of the consumer. So, I have no problem and the committee members that voted for this bill have no problem bringing this bill out to you today and urge your passage for the benefit of the consumers of the state. It's not a bill that's designed just to serve the shareholders of the bank; it's designed to serve the future growth needs of the State of New Hampshire by providing more capital for our businesses and our consumers in the State and also providing some needed infusion of new capital into the State, so with that I'll end my committee report and I'll expect to be standing a considerable amount of time answering questions but, Mr. President, that's the extent of the committee report.

SENATOR HOUNSELL: Senator, I expect that since you may be standing up and down for quite a while, I will keep my question brief. You referred to the bill and the amendment refers to the word affiliate. Would you define for me a difference, or tell me what the difference, between affiliate and ownership is?

SENATOR DUPONT: I don't have my dictionary with me so I can't give you the exact definition of affiliate but, an affiliation under this bill would be defined as a New Hampshire holding company would hold the assets of the New Hampshire banks that that holding company had built into its system. So in other words, the out-of-state bank would hold the stock of the New Hampshire affiliate.

SENATOR HOUNSELL: Would the holding of that stock, indeed, mean that they would own the bank?

SENATOR DUPONT: I guess you could say that, but then you could also say that the shareholders of the out-of-state bank also own that bank so who owns the bank would be subject to who owns stock of either bank.

SENATOR HOUNSELL: In my own mind, then, I can probably rest quite assured replacing the word affiliate with ownership.

SENATOR DUPONT: Senator, if the stock of one of the New Hampshire holding companies was wholly owned by shareholders outside of the State of New Hampshire, and there is nothing to prevent that from happening, then you could assume that the ownership of one of our large holding companies here in the State would be outside ownership also.

SENATOR HOUNSELL: Is that the current situation with any bank?

SENATOR DUPONT: No, but it is a conceivable situation.

SENATOR WHITE: In regards to the opt-out provision that you have in the amendment on page 3, I wonder if you could tell me who do you think might take advantage of the opt-out provision?

SENATOR DUPONT: Senator, I can't answer you that question because I don't know what bank, if any banks, would take advantage of that provision of the law but we felt that it ought to be in there in the manner that we prescribed in the committee.

SENATOR WHITE: In regards to that, don't you think there could be a potential class action suit if the directors, because you didn't put anything in here in regards to the stockholders, which I thought was going to be part of the amendment, that the stockholders might take a class action suit if they chose not to be taken over?

SENATOR DUPONT: There have been specific cases that our Senate legal staff, that Don Pfunstein has directed his attention to where this provision is being used in other states and has not been subject to challenge. We looked at the possibility of having the shareholder vote on that issue and it was felt that it was too cumbersome if an affiliation did take place, then the voters of those shares would have an opportunity to vote for or against it at that time by either selling their shares or not selling their shares.

SENATOR WHITE: Do you see any potential parallel between what happened to the bank in Portsmouth and just allowing the directors to determine.

SENATOR DUPONT: Senator, if you're referring to the purchase of a mutually owned bank, which is theoretically depositor owned and this legislation has no bearing upon this at all.

SENATOR WHITE: You indicated in your testimony that the bank commissioner would be the one that sets up the rules and regulations. Don't you think it'd be better if the legislature in this State, as in many of the other states, put the provisions in the law so that we would know exactly what we're voting on here today, not leaving it up to the bank commissioner to determine.

SENATOR DUPONT: Senator, we've set up fairly stringent requirements for the commissioner. He has to adopt those requirements under the rule making process and I'm comfortable with his ability to manage this. We presently have him being the responsible

person in State government over our banks in the State at this time and he's certainly shown me that he has great ability in that fashion and I don't anticipate that he will either misuse or in any way lessen the protectiveness by adopting the rules.

SENATOR WHITE: Senator, I discussed with you the other day the problems I had just found out on Monday in regards to the financial implications for the State of New Hampshire and I wondered if you had done anything in regards to the potential loss of the bank franchise tax. Currently the '87 estimate is 8 million, the '88 is 8-1/2 million and fiscal year 89 is 8.8 million. I checked with the Department of Revenue and they indicated that if we did go to interstate banking and it was, say the Bank of Boston, then we would loose that entire franchise tax that would be there and I was wondering if you could comment on that?

SENATOR DUPONT: Senator, we took a look at that issue and it's been an issue that's been raised before and we've had that section of New Hampshire looked at relative to the franchise tax in particular and it's our understanding because the stock will be owned by a New Hampshire corporation that that does not apply. Furthermore, the other issue is that corporation and that bank holding company would be subject to the New Hampshire business profits tax and as you know, or perhaps you don't know, the business profits tax has an off-set provision in it for the franchise tax. So, even if we did assume, and I think you're wrong in this issue, the fact that these franchise taxes wouldn't be collectable, then they would lose their off-set against the business profits tax. Therefore, there would be no loss of money to the State.

SENATOR WHITE: How many new auditors are we going to have to put in both the department of revenue and the bank commissioners to take care of all this auditing in regards to the bank franchise tax, the interest in dividends tax which will also be a ripple effect?

SENATOR DUPONT: I disagree with you on the interest in dividends tax also and we didn't address that and I won't at this time, but you know one of the strongest points about this bill is the fact that it requires a New Hampshire holding company to be established under the provision of this law. Whether it's a new bank start-up or an acquisition, that New Hampshire holding company has to stay in place and the ability for the New Hampshire banking commissioner to regulate the New Hampshire holding companies is fairly stringent under this bill. He has the authority to do it and he

will be regulating these banks through that mechanism and I have no doubt that we will give him the ability to do the job if he doesn't have the present resources.

SENATOR BLAISDELL: You just heard the statement made by Senator White. Would you believe that as Chairman of Senate Finance that I also checked with the department of revenue administration and I talked to them about whether we're going to loose \$5 million and they told me that that's absolutely not true.

SENATOR DUPONT: Senator, I believe that. We spent extensive amounts of time on both these issues, the interest on dividends tax and the franchise tax, and if there was any doubt in my mind that we were somehow jeopardizing the revenues, I'd have an amendment here that would specifically take care of those.

SENATOR FREESE: As one of the sponsors of this bill and as a businessman, I'm not really much concerned about the number of banks for or against this bill. This bill was not drafted for banks or by banks. The House committee, whose efforts in drafting this bill stretched through the Spring, Summer and Fall, drafted the bill in order to enhance the options and choices of people in New Hampshire who need and use banking services. New Hampshire consumers have spoken through the Gallop polls. But New Hampshire business speaks through several organizations that favor this bill; the New Hampshire Home Builders, the New Hampshire Association of Commerce and Industry, New Hampshire Realtors, the Manchester Chamber of Commerce, New Hampshire Group and, after an exhaustive study, the Business and Industry Association. These businesses are not bank stockholders, they are not bankers. They represent firms and people who deal with banks at arm's length and, in fact, must do so every day. They all support it and why. They support it because it enhances competition in the financial service industry. That means more funds, better products and services and better rates for New Hampshire business. That translates into more jobs, better prices and more strength for the New Hampshire economy. They who have the most to gain or lose support this bill. The collective opinion is entitled to some weight. If this was simply good for the bankers or was designed to benefit some allegedly greedy people, all of these New Hampshire businesses would not support it. But they all do. At the present time there are 37 states plus Vermont who has now inacted an interstate banking bill. There is no evidence of harm anywhere; all hard evidence points to the benefit that follows passage of these laws. To those who say wait for an

economic turn down to strengthen our banking system, I say the time to act is now. The time to solidify or control our banking services is at the present time. To those who say this is only a first step, I say we must act now and pass this regional banking bill. All legislation is a first or last step depending on what future legislatures do. Future legislatures will decide what is best for New Hampshire when they convene in future decades. When they convene I expect they will do whatever is right. I hope they can look back and say that what we have done is right. We have to act now if we are to keep New Hampshire in the mainstream of commerce and financial services. The issues raised by the opponents have been unrelated to the bill. These facts from other states prove this; there is no contrary evidence from any other state. Intimidation of questions about the integrity of this body should not stop us from doing what is right. All of the hand-wringing and moaning from the bankers who oppose this bill has really not convinced me. They have not shown me how it can hurt them; in fact at some of the hearings on this bill, at the main hearing, we had testimony that the bill would not hurt them. They are all big stockholders in their own banks and they really are feathering their own nests. They just want to avoid competition. Businesses have made it clear that they need this bill. We can decide this issue with the best interest of New Hampshire and its people as our goal. I urge you to support the bill as amended out of committee.

SENATOR HOUNSELL: Senator, I've had a lot of written requests for my vote from various groups and could you explain, as I'm sure most Senators have on this issue, perhaps why I haven't had a single bank in my district ask me to support this but I've had several asking me not to. What geographical difference might there be?

SENATOR FREESE: I don't know why you haven't had a call from the banks to support it. I've had no calls either. I guess you'd have to ask the banks.

SENATOR HOUNSELL: Would you believe that I've had several banks from my district who don't support it.

SENATOR FREESE: If you say so, Senator.

SENATOR STEPHEN: I rise today in opposition to SB 43, the so called interstate banking bill. I am opposed to this bill for several important reasons. First, as a member of the Senate Banking Committee, which considered this legislation, I am concerned that this poorly drafted bill has rushed through the committee without giving



us enough time to think about the bill and talk to our constituents. We didn't have enough time to consider the amendment or the dramatic implications this legislation will have on consumers and the banking community throughout the State. Several years ago when this legislature considered allowing Delaware-North to buy Rockingham Race Track, we spent several months debating the merits of permitting this out-of-state company to own and operate a revenue making race track. In the end, after investigating the matter in great detail, this legislature in its wisdom decided that Delaware-North would not be a good corporate citizen and the State should not do business with it. We were willing to spend that much time and money on Delaware-North and we should be willing to spend as much time on this important issue of interstate banking. After all, the decision we make for the citizens of this State will affect their life for years to come. We owe it to our constituents and to our financially strong and healthy New Hampshire banks to be slow and deliberate in this matter.

Why are we rushing this bill through the Senate in less than one months time? Why did we only have one public hearing on the bill? Why didn't we hold other public hearings outside of Concord so we could hear from business people and consumers unable to attend the hearing in Concord? When the New Hampshire Banking Commissioner couldn't attend the hearing, why didn't we hold a second hearing so we could ask him questions about the bill and whether he could, in fact, force out-of-state banks to do what the bill says he can make them do?

There are several questions that I would personally like to have answered before I vote on this bill. For instance, what new banking services would out-of-state banks offer which our own New Hampshire banks don't already provide or can't get for their customers? How will the ownership and the control of New Hampshire banks by out-of-state banks increase competition? Fewer banks mean less competition, not more competition. How will the New Hampshire Banking Commissioner be able to force the Bank of Boston or any other big out-of-state bank to comply with our State banking regulations? This bill doesn't tell us what authority he has and doesn't have in regulating out-of-state banks. What about non-banks which opponents of interstate banking say is a real problem? This problem does nothing to regulate non-banks; how can this bill address the problem of non-banks when it doesn't even mention them? Why do we need interstate banking in the first place? New Hampshire is a robust, growing state with plenty of capital. For the last six years our state-

owned and operated New Hampshire banks have financed our strong growth and development. Why do we need out-of-state banks to help us do what we are doing better than any other state east of the Mississippi? The only conclusion I can draw from this push to rush this bill through the Senate chamber is that proponents of interstate banking are more concerned about greed than they are about the need of the legislation. In conclusion, after countless hours of discussion and debate, no one, any time, at any place nor any discussion has proven to me that interstate banking would benefit the consumer. The board of directors of a bank taken over by their out-of-state power grabbers will be nothing more than puppets to decisions being made in Massachusetts, Chicago, New York or wherever the take over is located.

SENATOR DUPONT: Senator, being the chairman of Banks I find it a little bit upsetting to hear that we rushed this bill through the committee. If my memory serves me right, it was roughly three weeks ago that we heard testimony on this bill, we allowed at least a week for written comment to come in and after that it was at least a week or a week and a half before we exect the bill. So, I'd like to ask you, has this bill been treated any differently in terms of time than any other bill has this session?

SENATOR STEPHEN: Senator Dupont, in reply, I would think that an important bill, such as the interstate banking, should have possibly taken much longer especially to have other public hearings so people could decide on this bill.

SENATOR DUPONT: Senator, are you aware that our deadline is a week away from us right now and that perhaps we have to start worrying about that too?

SENATOR STEPHEN: I'm aware of that Senator Dupont, but also maybe if we couldn't have it this session, talk about it for the next session.

SENATOR DUPONT: You indicated that you've heard countless hours of testimony on this bill and you haven't been able to change your mind one way about interstate banking and I question whether or not countless more hours would have any impact on you. My next thing was I'd just like to make you aware of the point, because you mentioned Chicago and New York, are you aware that this bill only deals with New England banks and that decision won't be made in New York and Chicago?

SENATOR STEPHEN: To answer the first question, Senator Dupont, I've had an awful lot of calls in the late hours from constituents talking and speaking against this bill so, therefor I figure we should have time. As far as the out-of-state banks, I'm not so sure if we did have interstate banking where our monies would come from.

SENATOR DUPONT: Senator, I just want to draw your attention to the committee hearing. Would you say that the committee hearing was loaded down with constituents of your's and mine and other Senators in this room in terms of them coming in and testifying against this bill? Were there a lot of constituents at the hearing?

SENATOR STEPHEN: No, there were not a lot of constituents, Senator Dupont, simply because the constituents, I don't think, had a chance to know that we had public hearings.

SENATOR BLAISDELL: You talked about the time that's been involved hearing the interstate banking bill. Would you agree with me that if all of us in this room had read the Manchester Union Leader this past month, that we would have found everything wrong with this bill?

SENATOR STEPHEN: Well, I think the Manchester Union Leader is just trying to explain to the people what they think about it.

SENATOR BLAISDELL: Do you think, Senator Stephen, that they need more time?

SENATOR STEPHEN: I'm looking out for the constituents, not the Union Leader Senator Blaisdell.

SENATOR WHITE: You indicated in your testimony that you had long hours of testimony. Did they ever come up with any new banking service that would be provided to the State of New Hampshire? Everyone keeps shouting that there'll be new services provided, did they elaborate on what those might be.

SENATOR STEPHEN: Not to my knowledge, Senator White.

SENATOR WHITE: You indicated a study that we did on Delaware-North, and I was in the House at that time and sat on that committee and we spent two years practically going over the details of that. Did anyone on the committee ever think of having an outside consultant come in and bring in the ramifications from the states that currently have interstate banking?

SENATOR STEPHEN: That never happened, Senator White, and I wish that possibly did happen. We'd have more time to study it.

SENATOR JOHNSON: I think we have, in effect, gone way beyond the committee amendment and so my comments are going to be in line with the rest of the people then in as much we're really not talking, per se, about the amendment, but we're really talking about the bill perhaps as amended.

To begin with, I commend Senator Stephen for really identifying some of the major concerns with SB 43 and, yes, Senator Dupont, you did have a hearing on SB 43. I sat through that hearing that day and I think you conducted that hearing in a fair and equitable way and the final analysis, it was one hearing, one public hearing on one bill and I think Senator Stephen's point is that a bill of this magnitude warrants more than one public hearing and, in all likelihood, should have been taken out of the State Capital and into some of the other main centers in the State.

Now having said that, let me begin with my comments here. Frankly, I do not believe there is a demonstrated need for New Hampshire to adopt interstate banking. Yes, there are a lot of uncertainties and, yes, there are a lot of predictions. But that's quite different from facts. Let's not kid ourselves that regional banking is anything but a precursor to full interstate banking. Restricting this bill to New England is only a sop; it's only a sop to gain support from House members who previously were fearful of opening the banking door too wide. Senator Dupont, according to press reports, even considered restricting the bill to the three northern states, but did not pursue that issue. There's another point that I think we all need to remind ourselves of and I was reminded of it by Senator Freese's comments and also by Senator Stephen's. Let's remember that if the legislature passes any kind of an interstate banking bill, there will be no turning back. This is indeed a one way street. I sat through the Senate Banking Committee hearing and I was going to testify against the bill but I looked around that room and saw a room full of people, mostly non-legislators, and I decided that, yes, this is presumably a new bill and maybe the notions that I've had from previous bills would no longer obtain. So, I listened that day and while listening, about the only solid argument that I heard at the Senate hearing was that this bill would permit New Hampshire banks that were acquired, say by the Bank of Boston, it would permit those New Hampshire banks acquired by the Bank of Boston to have a greater lending limit and thus be able to accommodate the large



New Hampshire businesses which now go out-of-state for their big loans. Senator Stephen and Senator White asked a question about new services. Well I did hear some wag say that if acquired by the Bank of Boston they would also have access to the Bank of Boston laundry. So, perhaps that is indeed a new service.

Although the main point of my statement so far is that this is an argument namely to provide access to greater capital to accommodate the large New Hampshire businesses. Is this likely to be the case? Let me quote the statements of some of these large customers, large New Hampshire customers, who now go out of New Hampshire for their big loans: I refer now to a Concord Monitor article on Tuesday, March 3rd, 1987, the headline is "The largest firms would feel the smallest changes". Well, let me give you some examples of the statements that come directly from the large New Hampshire businesses that are now going out of state. This is from Rich Dailey, the President of Kingston-Warren; "interstate banking would make no difference whatsoever", "it is a non-issue, most companies our size have their banking relationships with the larger New England banks not located in New Hampshire". Here we have John Cookson from Kingsberry Machine Tool in Keene, who says, "if interstate banking were to come to New Hampshire", Cookson says he doubts that would change the way the company does business. Then we have Mike from New Hampshire Ball Bearing, talks that despite that fact, talking about interstate banking, the company will likely continue its relationship with large out-of-state banks in Boston since the company was purchased by a Japanese firm. So really one of the main arguments in favor of interstate banking is to accommodate the large New Hampshire businesses and the quotations from the principals themselves indicate that interstate banking is a non-issue and really isn't going to make any difference. The Concord Monitor also helped confirm the suspicion that acquisition of existing New Hampshire banks by out-of-state banks is the real motivation behind this bill.

Let me refer to another Concord Monitor article. For the quotations from the out-of-state banks, the person representing the Bank of Boston said, the Bank of Boston is "anxious to become involved in New Hampshire". The President of the Bank of New England Corporation, Steven McCormick, said his bank very much wants into New Hampshire and then another part of this article talks about the Bank of Boston in the fact that that bank has made the largest acquisitions in terms of bank assets but not necessarily the largest number of acquisitions per se. Senator Freese talks about what I call



assertions and predictions. Well, let me go back to a letter that I think most of the Senators should have received. It's from the President of Merchants National Bank, Roland Taylor over in Senator Torr's district. He talked about a survey that he took. These are the facts that he's determined and let me quote from his letter, "the week following a telecast about interstate banking, I had a survey taken of several banks in Maine and New Hampshire to determine what difference if any interstate affiliation had produced. Surprisingly, there was actually an area that at least 50% of the banks with interstate affiliation had lower rates than the majority of New Hampshire banks. The Maine interstate banks had lower rates than the New Hampshire banks. This was in the area of passbook savings, a true consumer type account, and if we're so concerned about the consumer, isn't that one of our major concerns? Many banks controlled by money-centered ownership were paying only 5-1/4% on regular savings accounts. In New Hampshire, nearly all banks were paying 5-1/2%, not 5-1/4%. In as far as consumer loan rates were concerned they varied widely from bank to bank in New Hampshire while the Maine banks with interstate affiliations were like looking at a carbon copy price list. All had almost identical rates. The difference in New Hampshire rates ranged from much lower than Maine to much higher with the average at least as favorable for the consumer."

Let me go back to a question raised by Senator Hounsell about the word affiliation. There is another word that ought to be mentioned in this debate and that's the word affiliated. Senator Dupont I did bring my dictionary today just in case I needed it. Let me quote from the Webster's Ninth New Collegiate Dictionary on the definition on affiliated. It means closely associated with another, typically in a dependent or subordinate position. Do we, in this body, want our New Hampshire banks to be typically in a dependent or subordinate position? I for one, do not. Senator Hounsell raised the point about not getting any calls in favor of this bill from banks in his district. Well, Senator Hounsell, I didn't either, however as I moved around my district yesterday, going to Town Halls during Town Meeting and Town Voting, this was one of the major points that was discussed and brought up to me. The voters, the consumers of banking services were all, all that spoke to me, opposed to interstate banking; none were in favor. So, what we have then really is a bill here that is a series of predictions and uncertainties. There is no hard evidence that passage of this interstate banking bill 43 as amended, and the amendments by the way are really only cosmetic amendments in my judgements, except, Senator Dupont, for your changes to increase

the fines. I thought that was a commendable increase in the amendment. But the amendment doesn't really change this bill; we have a bill that the evidence shows that when banks take over or acquire other banks they're taking that over at 2-1/2 to 3 times the book value. Who's going to make that up? Somebody who is over-paying for the acquisition of these banks is going to have to make up that overpayment and isn't that likely to come out of the pockets and fees and the lower interest rates paid to New Hampshire consumers. There is no turning back. This bill has not gotten the kind of study, the in depth study that a bill of this magnitude calls for and on that basis alone I urge the Senate to vote no.

SENATOR WHITE: Senator Johnson, you referred at several points in your testimony to the Bank of Boston. I wonder if you could comment on the fact that the Bank of Boston has loaned over 3.5 billion to Brazil which just announced that the suspension of its debt interest repayment and further on the fact that the Bank of Boston has loaned an equal amount to Argentina which just announced that it will follow Brazil's lead in suspending repayment. Do you think that we really want the New Hampshire banks brought into this whole bad debt situation?

SENATOR JOHNSON: Senator White, my only comment to that would be that there is probably an amendment in order that would specifically preclude the Bank of Boston from coming into New Hampshire. That's the amendment; that's how we ought to take care of that.

SENATOR WHITE: Senator Johnson, in Senator Freese's testimony, he alluded to the Gallop poll, I wasn't going to go into this, but everyone else is going into the bulk of the bill. I will hold my testimony until we finish with the amendment. However, I have a copy of a letter that you received from the University of New Hampshire and I wondered if you could comment on that in regards to the bill.

SENATOR JOHNSON: Yes, Senator White, I'd be glad to and I'm sorry I didn't include that in my original remarks and it's true that Senator Freese didn't bring up the Gallop poll in his original testimony and when I saw those results, Senator White, that were being recorded I had some question about it myself and then I actually received a copy of that report and the protocol that was followed. I had some questions about that report in my own mind and so I wrote a letter to Dr. David Moore of the Political Science Department at the University of New Hampshire and asked for his professional

critique of that poll. Let me share with you and the rest of my Senate colleagues the letter that I received from Professor Moore of the University of New Hampshire. He begins by, "my explicit agreement to you about this evaluation is that if you should quote from any part of it in a public forum", like today, "you will also announce at that time that the whole report is available to those who would like a copy", referring to this letter. So, this is what Dr. Moore is saying: after a careful, professional evaluation of the Gallop report I must conclude that the questionnaire used in this study as well as the report itself are both heavily biased in favor of those who commissioned the report, which was, of course, one of the banks here in New Hampshire, and does not necessarily represent the views of the New Hampshire public. Whatever the merits or demerits of interstate banking, we cannot conclude on the basis of this Gallop report, that the people of New Hampshire either support the overall concept or believe that interstate banking would be beneficial to New Hampshire. I would go even further to say that this Gallop report is so heavily biased towards one side of the issue but presented as though it was an objective assessment of public opinion, does a grave disservice to those in the state who are generally interested in what the people of New Hampshire really think about this issue.

There are two major biases in the questionnaire. The first is the description of interstate banking given to each respondent before any questions are asked about the issue. In that description, positive assertions are made about interstate banking but no balancing of negative assertions. The second bias is in the wording of each question which pressures respondents to give an answer whether or not they have an opinion. Senator White, with respect to the first bias, the positive assertions include the statement that 37 states have passed such laws and that "New Hampshire banks affiliated with banks of other New England regional banks would retain their identity by having a New Hampshire board of directors and continuing to be supervised by the New Hampshire Banking Commission". The latter statement, even if true, only looks at the positive side of the "affiliation". It does not tell the respondents what the banks would give up in their autonomy with that affiliation or what any other consequences might be for interstate banking. Now the statement that 37 states have passed such laws may, at first, appear to be objective, but even if the statement is true, presenting it to the respondents at the beginning of the survey is still a biased way to conduct a survey of public opinion. This statement creates a positive context which could very well influence respondents toward a positive answer, even if they don't know much about the issue. Consider an

alternative, as he is suggesting here, "as you may know, over the past several years some 13 states had refused to pass laws allowing their banks to become affiliated with banks from other states". Does anyone believe that the Gallop organization would have recommended to their clients that they begin their interviews with the second version? That would have biased the questionnaire against interstate banking by establishing a negative context and the clients, justifiably, would not have been happy with that approach. Likewise, anyone interested in an accurate assessment of public opinion should not be happy in a biased approach in favor of this issue that was used by the Gallop organization. There's more to this, Senator White, but I think you get the thrust of it.

SENATOR WHITE: Senator Johnson, as I recall, the hearing on this bill was Friday, February (tape inaudible to this point:) Rules Committee, Senate Finance did have hearings on that day and it was difficult for some of us to sit in as you had the opportunity to so, I'm pleased that you did that. Would you believe that?

SENATOR JOHNSON: I would believe that, Senator White.

SENATOR ST. JEAN: Senator, you went at length describing the need, the demonstrated needs for banks to come into this state. Could you tell me, four years ago, Senator, was there a demonstrated need in this state for interstate affiliation?

SENATOR JOHNSON: I couldn't tell you that, no of course not.

SENATOR ST. JEAN: Is it not true, Senator, that you voted for interstate banking four years ago?

SENATOR JOHNSON: That's true.

SENATOR ST. JEAN: Could you tell what has changed between four years ago and now Senator?

SENATOR JOHNSON: Experience and wisdom!

SENATOR ST. JEAN: I won't respond to that!

SENATOR TORR: Senator Johnson, would you believe that the State of Indiana has a law for interstate banking and has the opt out provision. Would you believe that 15 banks within that State have opted to take the opt out and that at this point in time since July 1, 1985 there has neither been a legal challenge or a constitutional challenge for that?

SENATOR JOHNSON: Senator Torr, with your reputation for truth and veracity I would indeed believe that.

SENATOR TORR: Thank you.

SENATOR HEATH: Senator Johnson, is the Dr. Moore that you quoted at some length the expert that in 1979 predicted the landslide by McIntire over Senator Humphrey?

SENATOR JOHNSON: I don't know that for sure. I hope it's not the same.

SENATOR DUPONT: Senator Johnson, you indicated and you quoted from the Concord Monitor article about the various companies that they had talked to and one of them was Kingston-Warren which has since been acquired by an out-of-state company, so I guess perhaps that we should amend this to include the ability for companies not to be acquired by out-of-state companies and also to pass the bill to do with out-of-state restaurants so that McDonalds wouldn't be able to locate in New Hampshire.

My concern and my question would be that, being a small business person and one that has no love of banks, I can assure you of that as most small business people don't, it's been my experience and my conversation with some people in Maine that the biggest area where the impact has been in terms of the availability of funds has been in the small business community. The Monitor article didn't address that, so I just would like to know that in your vast experience as you go back more terms in this legislature, if there has been any indication by anyone that would say that this wouldn't do anything but help the small business person in the state.

SENATOR JOHNSON: I don't think that there's any evidence to show that that will indeed be the case. Going back to one of my original comments, Senator Dupont, at the hearing there really wasn't any evidence brought out that the small business person in New Hampshire is having a problem today with the possible exception of the Chairman of the Senate Banking!

SENATOR DUPONT: No, I have no problems today, Senator, I'm just reflecting back on the start up business or new business and what they go through where financing is concerned. Would you believe, Senator, that I could give you some names of companies that are small companies in the State of New Hampshire, and when I say small I wouldn't say they are a corner drugstore, but some are, per-



haps, in the \$10 to \$20 million range in sales that have needs that exceed what New Hampshire banks can service them with and that now presently have relationships with banks in the Boston banking community that would, if this bill passed, be able to provide those services through a New Hampshire bank which then would create some jobs in the State by the expansion of the services that they would have to provide. So, it will bring some money back into the community and I think you would have to agree with me on that, Senator.

SENATOR JOHNSON: I would certainly have to agree with you on that and in the same way I would agree that I took some money out of New Hampshire and put it into Florida when I bought a house down there.

SENATOR KRASKER: Opponents of SB 43 seem to have lost sight of some very important and basic considerations. We've had the number 37 mentioned many times, I think we have to reflect that this is an important number. Interstate affiliation laws have passed in 37 states, we do have a record to go on. The Vermont State Senate has now passed the bill and that means that if Vermont passes it we'll soon be the only state in New England, in fact east of the Mississippi, unable to participate in bank affiliation procedures.

I've been listening to the attack on the Gallop poll. I think it is a reputable poll, but I will say that while it's been attacked I don't think any of the attacks have ever invalidated the poll. It does indicate that New Hampshire consumers want regional bank affiliation. In fact, that poll says they want us to pass a regional law. Two years ago, I was a member of the House when the House rejected a national affiliation bill. That was in the House's wisdom. The Gallop poll proves that this rejection was consistent with the views of New Hampshire consumers. But they've stated now, by a margin of 2 to 1, that they strongly support a regional bill. Therefor, I conclude, if we're to continue to vote with our consumers, we must vote for this bill and I will say that, as a proponent, I really am interested in needs of my constituents and not greed. The Concord Monitor, the Keene Sentinel, the Valley News, the Manchester Journal, WGIR, the New Hampshire Business Review, and other objective authorities find that this bill will result in and increase competition and that, in turn, will directly benefit the person that I see referred to all the time as the "little guy". All evidence from other states, especially from our neighboring state of Maine - and I live on the border of Maine and I can attest to the accuracy where interstate banking has

been in fact the longest - conclusively proves that consumers benefit from interstate affiliation legislation. In any case, and I sat through most of the hearing about three weeks ago, I have not heard and no one can find anywhere any harms, specific harm that has befallen anyone as a result of interstate bank affiliation having been enacted in 37 states and I sat there and I wanted to hear something specific and I never did. The opposition continues to come from a small group of bankers who wish to keep New Hampshire isolated. These bankers own stock in their banks, they have a self interest, they find it's in their best financial interest to kill this bill. The Union Leader has written 30 editorials, to my knowledge, in its efforts to kill this bill and I don't believe they have made their case. They haven't made a case for New Hampshire to isolate itself from the rest of the financial world. Along with what appears to be the entire New Hampshire business community, this bill is also supported by the statewide association which represents New Hampshire's 87 banks. Let me make clear that while I welcome their support as anyone's support, what the bankers think isn't what I care about. What I care about is a strong and healthy and competitive financial service industry which will benefit New Hampshire consumers. I didn't come here to represent bankers and I certainly didn't come here to represent the Union Leader. I'm proud to be a part of the legislative body that has again stood up to outside interference and hasn't knuckled under to the Union Leader or anyone else. The people I represent need interstate bank affiliation. They told me so many times; this will be the third time that I've had the opportunity to vote on interstate affiliation. I've studied the issue and I believe it to be in my constituents' best interests. Those who oppose it have offered no evidence, no hard evidence, to justify their opposition. The evidence and support in favor of it is overwhelming. That's why I sponsored this bill and why I urge you to vote for it.

SENATOR WHITE: Senator Krasker, over and over in your testimony you indicated that 37 other states have adopted that.

SENATOR KRASKER: One's D.C.

SENATOR WHITE: Does that mean that the State of New Hampshire then should follow the lead of all other states and either go to an income tax or a sales tax because everyone else does it, so it must be good?

SENATOR KRASKER: Oh, I don't think that's an applicable example. I think banking goes beyond state lines, doesn't it, and what we

do with our tax structure is a purely internal situation and we've always regarded it that way in New Hampshire. I don't think it's an applicable example.

SENATOR WHITE: You indicated that you thought that this would be good for the consumers. Are there any safeguards in this bill that will prevent the overtaking of a healthy New Hampshire bank by an unhealthy Massachusetts bank? Do we have any safeguards in this bill at all to prevent the outflow of our good capital?

SENATOR KRASKER: We have a very good banking commissioner and I think he and the attorney general certainly can make sure that the provisions of this bill are carried out adequately. I've been told by sponsors who drafted this bill, I've stated publicly that I wasn't part of the draft, I came upon it later; who have told me that the controls in this bill are the tightest in the country.

SENATOR WHITE: Senator Torr, in your questions to Senator Johnson you indicated that Indiana had an opt out provision?

SENATOR TORR: Yes Ma'am

SENATOR WHITE: Did they include in that the stockholders or was it just the directors as we have in the amendment before us?

SENATOR TORR: I'm not aware of that, but I can explain that situation if you like.

SENATOR WHITE: No, I just wanted the specifics, if the stockholders were included in that particular law?

SENATOR TORR: I'm not aware of it.

SENATOR STEPHEN: Senator Krasker, you mentioned in your testimony that this interstate banking would help the little guy out there. Please explain to me how it would help him?

SENATOR KRASKER: You were at the hearing certainly longer than I and so you were given specific examples which I heard by people in business, bankers who talked about the need. I will give you one example of a constituent of mine who lives in Portsmouth and we talked about interstate affiliation and she said she has taken all her banking business to Maine for the first time, as I say we are across the border, because she's finding the rates are better and I think this is a real service to consumers that this happens and to the

little guy who may be looking for just better rates on deposits or better rates when he or she goes out to get a loan. I know it's happening from people who have told me in my area that it's happening in Maine.

SENATOR STEPHEN: Senator Krasker, do you know of any industry in your area that has come to you and have asked you that they need more money and they have to move out of New Hampshire because they can't get the money to expand their businesses?

SENATOR KRASKER: No. In all honesty, I haven't had any business come to me and say they are going to move out of New Hampshire. There are lots of reasons why businesses stay in New Hampshire. I have had many business people over, as I say, three terms and I've supported interstate, come to me and ask me if I would support it because they find a need for it in their business and I can give you the names later if you'd like them.

SENATOR DUPONT: Senator Johnson, if I'm not mistaken, you indicated in your testimony before the Senate that you've taken some money out of a New Hampshire bank and have deposited it in a Florida bank, is that true?

SENATOR JOHNSON: No, not quite that. I said I put some of my New Hampshire money in a Florida bank, incident to buying a new house in Florida.

SENATOR DUPONT: Are you aware that Florida has interstate banking? Are you sure that the bank that you put your money in in Florida is not owned by the Bank of Boston?

SENATOR JOHNSON: I certainly hope it is not owned by the Bank of Boston. Yes.

SENATOR JOHNSON: My first question has to do with something that Senator White asked you there about the taxes. Isn't it fair to say that, going back to the Gallop poll lead-in, that 37 banks had passed this and isn't it true that that notion has been used as an argument in favor of this and isn't it true that that's a similar ploy to what the teenagers use with their parents that everybody's doing it and therefor we should do it too?

SENATOR KRASKER: No, I don't think so. I think you look at 37 states that debated, as we have, the issue on its own merits and decided it was good for its state and I think that's what we're doing here today.

SENATOR JOHNSON: Isn't it also true, that each of us in our own way has chosen which sources, what evidences that we are believing in order to make our case and decide our position here. You site certain people who are in favor of it and yet the fact of the matter is that no banks in my district are in favor of it, the constituents are against it there. Isn't it true that we each pick out our own sources of information to make our point?

SENATOR KRASKER: No, I think there really is information that leads us to believe that interstate affiliation should pass. I think that's the strong evidence and I have thought that for a long time.

SENATOR JOHNSON: How do you account, then, for Mr. Roland Taylor's statement about the passbook savings account rates where the rates in New Hampshire are 5-1/2% and a good deal of the ones controlled by interstate banking pay only 5-1/4%? Isn't that some rather substantial evidence, right there across the river from you?

SENATOR KRASKER: There was substantial evidence in that report in favor of interstate banking affiliation. I think you were very selective in what you just asked me!

SENATOR CHARBONNEAU: Senator, did you attend any of the hearings in drafting this legislation?

SENATOR KRASKER: No, I didn't. When Representative Packard came to me and some of the other sponsors, we reviewed the bill very, very carefully and it was at that time, after I saw the controls that were built into the bill, that I decided to be a sponsor. They gave me the rationale for why the bill was drafted the way it was and I felt that their reasons were valid. They spent 14 months drafting the legislation.

SENATOR ST. JEAN: Senator, you were asked earlier by Senator White about the safeguards in this bill. Would you believe, Senator, starting on page 5 there is a whole section that begins with application for certificate that covers things like initial and future plans for affiliating, loan investment and dividend policies, record of performance, organizational chart, individuals who have been convicted of any crimes, these are things that are contained in the bill and don't you think those are important safeguards that we put into our interstate affiliation bill?

SENATOR KRASKER: I think they are very important and that's why I support the bill. I understand that you have even increased the penalties to make it even tougher.



SENATOR HOUNSELL: I think who ever stands up today and speaks, before they say a word, there's going to be an assumption of their position. I won't surprise anyone by saying, of course I'm opposed to this amendment and this bill. I don't expect that in this last hour that I'm going to swing any votes, although I remain hopeful that I might.

What we're talking alot about here is philosophy. You have a lot of rhetoric being used throughout this debate and, of course, you have politics. I just want to point out some words that are being used and I'm going to point out to a contradiction that I see. I hear the word unique, I hear the word affiliate, you hear evidence, ownership, buy-out, sell-out, holding, beholding, marching orders, inexperience and independence. A lot of what we're going to vote on, this session and past sessions of what we have voted on and future sessions, has to come down to hunch. Now I can tell you that I can't produce any evidence that the stated opposition is correct. But I have a hunch that someday, if this passes, someone may refer to the comments, be it the lengthy comments of Senator Johnson and say "By God, the guy was right". Look at 93 on a Friday evening, I watch the people from the southern part of New England, the region that we're associated with, come north to use New Hampshire, to enjoy New Hampshire, a place where we've decided to live. At some considerable financial deficit, people in my part of the state acknowledge that when they go up there and decide when they go up there, that they are going to go into a part of the state, a part of New England, that is financially and economically behind the rest of the region and yet they choose to go up there for psychic income.

We have a bill that is going to be coming out, SB 1, and this is the contradiction that I see. SB 1 provides, hopefully it will provide, that we'll be able to preserve the uniqueness of New Hampshire. The wonderful, beautiful, natural resources of New Hampshire. I just ask this question, and then I'm sitting down, don't you see the contradiction on spending \$20 to \$50 million to preserve what we have and supporting a measure that may very well give up what we have?

SENATOR ST. JEAN: The tactics of the opponents of this bill have been remarkable. Distortions, red herrings, misrepresentations, personal attacks and intimidation have been focused on this Senate for months. There is no way to deal with all of these attacks but, the integrity of this body and its membership requires that at least some of these outrages be met head on.

First, the letters from those bankers opposed to the bill, and I'll call them non-bill bankers. One contained an alleged survey of Maine. It consisted of phone calls by bank employees. To this date, I am able to make no sense of it whatsoever. I find it less persuasive than the overwhelmingly favorably report from the Maine legislature and the Gallop poll, a poll I think is much more reputable than those alluded to by David Moore, a former professor that I had and I always wondered what he was doing there. Perhaps the most blatant of this letters of misrepresentation is that of the banker in Derry who asks in his letter, "who investigates these out-of-state banks across state line". Well, the answer is in the bill. Commissioner Roberge regulates the in-state holding companies both through legally and enforceable agreement, executed at the time of the affiliation and through his own regulations. Let me read the provisions in the bill, and I think it's important that we start talking about what's in the bill, not in newspapers. 384:51; Monitoring of certificate holders, rulemaking. Each bank in New Hampshire bank holding company with which a certificate holder has become affiliated shall provide reports and permits, examinations of its records to the extent considered necessary by the commissioner to monitored and enforce the provisions of this subdivision and if applicable, shall continue to be regulated as it was prior to its affiliation. 384:52; Penalty, these are the penalty clauses that were increased from \$1,000 to \$5,000 a day or part of a day during which the violation continues.

II. The Attorney General, at the request in the name of the commissioner, shall seek prompt divestiture of any affiliation that is prohibited by this subdivision. The banker from Derry says the opt-out provision, and Senator Torr discussed this earlier, which enables his bill to opt-out of the mechanism created by this bill and not become affiliated with any out-of-state bank is a sham. We passed a law which our Senate attorney says is constitutional about which the banker offers absolutely no evidence to the contrary and he says the law is a sham? He owns more than 2% of a stock in his own bank. He is a director and he is opposed to the interstate affiliation option by this law. He wants to remain independent. If he couldn't use the opt-out he wouldn't be able to oppose this bill. The fact is, he and his stockholders find it in their best interest to oppose interstate bank affiliation. He wants to impose his plan on the rest of New Hampshire. No, shareholder objection to opt-out is not the problem for the banker, in fact the banker is afraid of competition from affiliated banks in his market areas. Permit me to mention the last outrage of distortion from the banker. He says in this letter, and I quote, "be it a regional bill or a nationwide bill, it makes little or no difference.

Maine banks are already controlled by New York and Massachusetts holding companies. A Maine bank owned by a New York holding company could acquire a New Hampshire bank". He's just not telling us the truth. A Maine bank controlled by a New York bank, affiliated outside of New England in any way cannot acquire a New Hampshire bank. It would not be allowed into New Hampshire under the expressed provision of this bill. Even if it became affiliated outside of New England after New Hampshire entry, it would be required to divest itself from New Hampshire holdings, RSA 384:52 II, it is clear on that point. This anti-leapfrog language has worked in other states and it will work here. We have listened to former Governor Thompson express his opposition to future progress in New Hampshire. He stated in the Union Leader that City Corp. has swallowed up Maine banks. As everyone else knows City Corp. came into Maine on a de novo basis, the very manner in which the opponents say will benefit competition, the amendment we will deal with later. There will be no retraction from Mr. Thompson. Quite frankly, I've become a little bit tired of my constituent, Jim Finnigan and his editorial. After associating New Hampshire banks with mobsters, arm dealers, he has a nerve to ask John Tucker in a recent editorial why so desperate when he defended Fitzpatrick in the Gallop poll. Mr. Finnigan's editorials are old hat. We have been assailed with phony statistics from certain anti-bill lobbyists who tell us that interstate banking has resulted in a reduction of Maine banks by 50% since it was passed in 1975. Everyone knows, including these lobbyists, that the interstate bank process that has passed in Maine was reciprocal and not in effect until 1983 when other states could respond, New York and Massachusetts. Its statistics, which are similar to New Hampshire's during the same period, applied to a period in Maine in which interstate banking was not effective and could not occur.

Lastly, I would like to turn to the principle opponent of this bill and it's my home town newspaper. First some statistics, Senator Krasker alluded to them earlier, - 29 editorials in the past three months, including one by a person here present, have insulted the intelligence of the newspaper readers, have assassinated the character of hard working banking professionals and impuned the integrity of this citizen Senate. Editorials entitled, "Will greed prevail and keep out the mob and banking in the mob are designed to intimidate and bully the Senate into submission". Sadly, one of our own has participated in this barage of balony and, even more sadly, some here have allowed themselves to be beaten into submission. We're going to stand up here today to this pressure and also the House will

when the bill reaches them. The General Court will stand up and be proud because, unlike the Union Leader, like all bullies, it's really afraid of something. The Union Leader is afraid of losing its state-wide news monopoly and its capacity to control issues and even presidential primary elections. When you hear them talk about loss of a control in New Hampshire, listen very closely. You'll give the House a chance to show its independence and integrity as well. Thank-you.

#### AMENDMENT TO SB 43-FN

Amend RSA 384:50 as inserted by section 2 of the bill by replacing it with the following:

384:50 Application Fee. Each applicant filing an application under RSA 384:48 shall pay an initial application fee of \$10,000 and such additional amounts as determined by the board of trust company incorporation as are necessary for a full and complete examination of the application, the applicant and the bank or bank holding company to be acquired.

Amend RSA 384:52, I as inserted by section 2 of the bill by replacing it with the following:

I. Whoever fails to comply with the provisions of the agreement entered into under RSA 384:48, III or the requirements imposed under RSA 384:51 shall forfeit to the state up to \$5,000 a day for every day or part of a day during which such violation continues. Whoever violates any other provision of this subdivision or any other conditions upon which any affiliation certificate was granted by the board of trust company incorporation shall forfeit to the state \$100 a day for every day or part of a day during which such violation continues. Any such violation shall be forthwith reported by the commissioner to the attorney general, and the forfeiture may be recovered by an information or other appropriate proceeding brought in the superior court in the name of the commissioner. The attorney general, in the name of the commissioner, may also seek to enjoin the continuation of any violation.

Amend section 6 of the bill by replacing it with the following:

5 Opt-out by New Hampshire Banks or Bank Holding Companies.

I. The board of directors or trustees of a New Hampshire bank may adopt a resolution before September 1, 1987, to exempt such bank from the acquisition provisions of RSA 384:44-54. If the board of directors or trustees adopts such a resolution and files a certified



copy of it with the bank commissioner, the bank may not be acquired nor make an acquisition under RSA 384:44-54. An election made pursuant to this paragraph will be irrevocable for a period of 2 years.

II. A bank which elects to exempt itself under paragraph I may within 30 days of the expiration of the 2 year period elect to renew its exemption for an additional 2 year period. A bank may continue to make such election in the same manner every 2 years thereafter.

Amendment Adopted.

SENATOR JOHNSON: I rise to offer a floor amendment referred to as 1764B and a floor amendment which was distributed to the Senators this morning as early as possible to make sure they had it in a timely fashion.

I would like to speak to this amendment. Why am I offering this amendment? Because this amendment will put to the test the arguments of the proponents of interstate banking, namely the need to stimulate competition in the New Hampshire banking industry and thus benefit the New Hampshire consumer in terms of lower rates, new services and to insure a net influx of capital to New Hampshire. Let me assure you that about 90% of the language in this amendment is taken from SB 43 as amended thus far. The repetition is a legislative services decision. The concept of the amendment is very simple: it permits New England banks to come into New Hampshire and open up new banks. That authority is contained in SB 43 now. This amendment does not permit out-of-state banks to buy up existing New Hampshire banks. The amendment further prohibits the new bank from then acquiring existing New Hampshire banks. Is this a novel idea? Is this an untried idea? The State of Delaware adopted similar legislation in 1981. I had the opportunity to speak directly with the Delaware banking commissioner and by the way, the Delaware law is far more demanding, far more restrictive on the out-of-state banks than this amendment is. What have been the results in Delaware, not the predictions, not the assertions, but the results in Delaware? What we're talking about is *de novo*, the installation of bringing into a State a new bank. So, what are the results in Delaware? Since 1981 there have been 18 new banks established in Delaware, 18 new banks. I was concerned and a quotation attributed to Senator Freese yesterday, again in the Concord Monitor, where he made it clear that the motivation of out-of-state banks was to enter the New Hampshire market through acquisition of existing businesses, rather than take the longer, more expensive route of starting up new banks in the State, he said. Then he is quoted as



saying it will take 20 to 25 years to build what they want to build. Well, the only thing that we want to build is a provision in the law to permit new banks to be established, so we're not trying to build anything. His point is that it would take 20 to 25 years for new banks to come into New Hampshire. The facts of the matter are in Delaware, they did a number of those in the very first year that the opportunity presented itself. Let me share with you the bank holding companies that were among the first to come into Delaware; the Bank of New York Incorporated, Bankers Trust New York Corporation, Barclays American Corporation, the Chase Manhattan Corporation, Chemical New York Corporation, CitiCorp and the list goes on. This is the list of the new banks that were established in Delaware as the result of the legislation passed in 1981. So, my Senate colleagues, we've had a long debate so far but let me say to you now, if you truly want to stimulate competition in the New Hampshire banking industry, if you truly want to benefit the New Hampshire customer, you're constituent and mine, if you truly want to bring new jobs to New Hampshire, and by the way I guess I forgot to say that the banking commissioner in Delaware told me personally that the legislation passed in 1981 brought in 8,000, yes 8,000, new banking related jobs and of course when they come in and establish a new bank building or buy a building they've got to bring in new dollars. What that figure would be I don't know but 18 new banks it would have to be significant. So, if you truly want to bring new jobs to New Hampshire, if you truly want to bring new money into New Hampshire de novo is the way to do it. The 6 year experience of another small state, Delaware, is ample proof that the de novo only will accomplish the objectives being espoused by the proponents of interstate banking. I urge you to vote for this amendment.

SENATOR BLAISDELL: Senator Johnson, I appreciate the opportunity of reading this amendment early this morning. I think it was nice of you to get it to the Senators and it brought out some questions and I don't want to be too long. I know we've kind of dominated here, but Ray, Senator Conely, I want you to know that nothing has changed in this chamber since I took your picture under Harry Truman, I want you to know that. We've documented, Senator Johnson, that there are 37 states including the District of Columbia that have interstate banking today. You just mentioned de novo; that's one of the things that's in your amendment. Do you have any idea at all of how many have enacted it a logistic de novo cause out of the 37?

SENATOR JOHNSON: I don't know what that number is Senator Blaisdell, but I think the most telling evidence would be another small state similar in size to New Hampshire.

SENATOR BLAISDELL: Would you believe me if I told you that the answer to that is none?

SENATOR JOHNSON: I would believe that, but I don't know what the relevance of it is.

SENATOR BLAISDELL: If we had a bank in New Hampshire, which got into trouble in its market area and the bank commissioner wanted to bring in an out-of-state bank to acquire that bank, could the banking commissioner do that today?

SENATOR JOHNSON: I don't think so.

SENATOR BLAISDELL: Would you believe that that would be no, also. He could not do that either. The out-of-state bank, by the way, could open up an office right across the street from that bank and compete with another bank, I suppose. Don't you think that would be harmful to the New Hampshire banks and its depositors if he was not allowed to do that?

SENATOR JOHNSON: I don't know of any evidence that would support that statement.

SENATOR BLAISDELL: I took this out of a letter. May I read a quote from the banking commissioner of the State of New Hampshire so I can follow up with two further questions and then I will sit down?

The banking commissioner of our state, who I think is one of the finest banking commissioners in the country, said that our state needs strong banks and he said we don't necessarily need more banks. Unlike other states, our particular history has produced a desirable mix of numerous community and statewide banks. If in this new environment, however, a New Hampshire bank becomes weak we want to be able to strengthen it through the acquisition or in-state merger. We should not provide the means for exploitation of the institution by another state competitor operating on its own. Moreover, unlike acquisition, the de novo option fails to require adequate capital commitment since it operates without the entry payment of a percentage of book value. The premium payment effect of the acquisition component both "strengthens the present capital

structure of our existing banks and insures that an out-of-state bank entering New Hampshire will have to build up the bank it acquires. All for the benefits of our citizens and banking service customers." Now, that was a quote from the banking commissioner, do you disagree with the banking commissioner on that, Senator Johnson?

SENATOR JOHNSON: Senator Blaisdell, I think that it's really unfair to read an extended letter that goes back a period of time and ask me for one simple comment on that.

SENATOR BLAISDELL: May I comment back on that. I've listened to two or three extended comments that you've made this morning and I listened to them. Are you aware, Senator Johnson that the banking commissioner supports this bill in its present form by the committee?

SENATOR JOHNSON: I am not aware of that. I am aware of the fact that the banking commissioner did not appear at the Senate hearing on SB 43 and sent a surrogate.

SENATOR DISNARD: Senator Johnson, while you were speaking, I couldn't help but think, Senator Dupont indicated that the home owners, the realtors, the New Hampshire Association of Commerce and Industry, the New Hampshire Group, and any other business in the State was in favor of this. This morning, this afternoon rather, I heard you discuss your concerns, Senator Stephen discussed his concerns that at the hearings people didn't have an opportunity to review or discuss. My question is that this amendment that you kindly gave to me, does this amendment have the approval or has it been reviewed by these business groups that they would have the same opportunity that you and Senator Stephen are concerned about?

SENATOR JOHNSON: Senator Disnard, clearly the answer to that is no. I offered the amendment when I did as an evolutionary process and consideration of this bill here. I guess what I would say to you in all seriousness and I appreciate the manner in which you asked the question, is that the de novo provision is a part of the existing SB 43 and the amendment simply takes away the authority for out-of-state banks to acquire and buy up an existing New Hampshire bank. In essence they did have that, the people who did review SB 43 in the first instance did have the opportunity to review and understand the concept of the de novo because of SB 43.

SENATOR HOUNSELL: Senator, after talking at length and knowing a mutual disdain for what is known as interstate banking and maybe you can help me. Although I think I am going to vote for this,

do you think there is logic in voting for this because of what is before us now is better than the committee amendment?

SENATOR JOHNSON: Senator Hounsell, I think you bring up an important point and an apparent conflict. The reason that I offer this amendment is that should this body pass something, this is what I think we ought to pass not because I'm in favor of interstate banking per se .

SENATOR HOUNSELL: In essence, I can kind of hold my nose and vote for this because it's better than the other?

SENATOR JOHNSON: Yes, both of us will.

SENATOR ST. JEAN: Senator, as I understand what you just said that you support this bill as amended, is that not right?

SENATOR JOHNSON: I support the amendment that is before the body at this time.

SENATOR ST. JEAN: As I understand that you are supporting interstate banking in a very limited scope. Is that not true?

SENATOR JOHNSON: As I indicated to Senator Hounsell, if we're going to do anything, this is what we ought to do because de novo only will guarantee that only new banks will be established and that our existing banks will not be bought out by the likes of the Bank of Boston.

SENATOR ST. JEAN: Under this bill, and we'll get back to the Bank of Boston as it seems to be talked about a lot today, the Bank of Boston could, in fact, come up to New Hampshire, start a new bank holding company with stock which, in turn, the stock would be of a New Hampshire bank. Is that not correct?

SENATOR JOHNSON: I think that the amendment adopts the language that the Senate Banking Committee adopted in terms of procedure, so that if there are weaknesses and SB 43 as recommended by the Senate Banking Committee then there would be weaknesses in the certain aspects in the floor amendment before us.

SENATOR ST. JEAN: The Bank of Boston does in fact come here, would they be able to branch around the State of New Hampshire?

SENATOR JOHNSON: Under this amendment, they would have the same privileges that the existing New Hampshire banks have. yes.

SENATOR KRASKER: Senator Johnson, you mentioned that you had patterned this amendment on the Delaware statute and I wonder if you're aware that out-of-state banks in Delaware aren't permitted to function as banks in Delaware, that they can only offer banking services to other states but that they don't function as banks.

SENATOR JOHNSON: Are you suggesting that we now have a bank that doesn't perform banking services, Senator Krasker?

SENATOR KRASKER: No, I was just asking you if when you patterned this on the Delaware model that you understood this and, if so, is it something that we should understand?

SENATOR JOHNSON: Senator Krasker, let me try my best to answer your question. What I did say was that the State of Delaware adopted similar legislation in 1981. The similarity is basically that their legislation permitted de novo entry into the state only and that's what the floor amendment before us purports to do - permit de novo entry into New Hampshire only.

SENATOR KRASKER: So, in that respect your amendment differs from the Delaware statute?

SENATOR JOHNSON: It does, I have the Delaware statute here and one of the things that you might be interested in, Senator Krasker, is that the Delaware statute on this virtually stands alone and I asked about the banking regulations implementing the Delaware statute and I was told by the banking commissioner that the only regulations that they had adopted had to do with the application for certificate. Nothing beyond that. The statute itself is very complete, probably far more complete than what we have before us right now.

SENATOR DUPONT: Senator Johnson, I'm glad to see that you agree with 90% of our bill because whatever you want to call your amendment it is an interstate banking amendment and it does allow for interstate banking in the State of New Hampshire. I'd have to agree with Senator Hounsell. There is something that does smell in your amendment and I'll have to ask you this question as a result of the problem that Senator Hounsell has. Isn't what he really smells the fact that you created a group of second class banks in the state that don't have the full benefits and abilities that our in-state banks presently have?



SENATOR JOHNSON: I certainly would not agree with that characterization, not in any way, shape or form and in the first part of your question, Senator Dupont, I did not say that I agreed with 90% of the bill as submitted by your committee. What I did say was that about 90% of the language in this amendment is taken from SB 43, the most agreeable portion of SB 43 has been eliminated by this floor amendment.

SENATOR DUPONT: Senator, you can't say that Delaware has interstate banking legislation on the books and not refer to your amendment as interstate banking.

SENATOR JOHNSON: I don't disagree with that, Senator.

SENATOR DUPONT: Senator, aren't what you're really doing is allowing an out-of-state bank to come in here with all their resources and compete with our banks in-state and you're not giving them the ability to go out and attract those resources also?

SENATOR JOHNSON: This amendment simply allows out-of-state banks to come in and build a new bank, bring their new services and bring their capital into New Hampshire, Senator.

SENATOR WHITE: In regards to this amendment you proposed, I would like you to answer a question that I have in regards to interstate banking. I currently am a stockholder of one bank and I am also a corporate member of another bank and if I understand this de novo approach, I would not have a conflict of interest in voting for that as opposed to voting for the other bill. Is that correct?

SENATOR JOHNSON: Yes, I agree with you Senator White, you could vote in favor of this amendment with no mental reservations about a conflict of interest but then on the other bill itself, it would be your conscience being your guide.

SENATOR HOUNSELL: Senator Dupont, would you believe that my comment to the odor that protrudes from this amendment is incontestable compared to the odor that explodes to my nostrils from the amendment that was recently passed by this body.

SENATOR DUPONT: Senator, the amendment as submitted by Senator Johnson is his amendment, it has nothing to do with our bill. He picked and chose what he wanted to take out of our bill, and if there is a peculiar odor that's coming from it, then perhaps you should speak to Senator Johnson.

SENATOR FREESE: Senator Johnson, is your amendment supported by the communities and the banks?

SENATOR JOHNSON: I believe that it is because I know that two of their lobbyists would be in support of this and, to the extent that they speak for those banks, the answer would be yes to that. But, from my personal knowledge I do not know that it is or is not, but what I do know is that I believe this amendment is in the best interest of New Hampshire consumers.

SENATOR FREESE: Have you checked with any other groups which supported the banking committee's position?

SENATOR JOHNSON: Senator Freese, I don't know that I did that in a direct way. I did that by virtue of the fact that I was at the Senate Banking hearing, that full day. I was there. Are you asking me, did I check this amendment with those?

SENATOR FREESE: Yes.

SENATOR JOHNSON: No, I haven't. This whole process has moved along. There was a good deal of uncertainty as to when this bill was going to be brought on the floor, Senator Freese. I was told last Friday that the bill was expected to be brought onto the floor on Monday, and that put a certain time constraint on my time and energy and then I find out it was supposed to be on Thursday and then I found out it was supposed to go out on Wednesday. So, the time and circumstances did not permit that, which is why perhaps we should have another hearing on it.

SENATOR FREESE: Senator Johnson, did you have time or did you check with the bank commissioner in regards with your amendment?

SENATOR JOHNSON: Yes I did.

SENATOR FREESE: Would you mind telling us what it might have been?

SENATOR JOHNSON: The banking commissioner indicated that he might have some problem with enforceability of this.

Question: To adopt floor amendment.

Senator Hounsell requested roll call.

Senator Dupont seconded.

Those in favor: Senators Bond, White, Charbonneau, and Johnson.

Those opposed: Senators Hounsell, Heath, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, Pressly, Nelson, McLane, Poldes, Stephen, Bartlett, St. Jean, Torr, Delahunty, and Krasker.

Rule 42: Senator Preston.

4 Yeas

19 Nays

1 Rule 42

Motion lost

SENATOR PRESSLY: My first exposure to interstate banking was as a freshman legislator on the Commerce and Consumer Affairs Committee and I'd love to tell you about a day in the life of a freshman legislator. As in the Senate and the House, they also grouped the categories of bills together and in the morning, all the bankers and the banker's lobbyist came before us and the bill in the morning was in order to permit handicapped consumers to have the ability to cash a government check at any bank in the State of New Hampshire. This was an effort to allow a handicapped person to have some flexibility, given their difficulty that they have in maneuvering, have the ability to go into any bank in the State of New Hampshire and cash a check on another government check; be it another state or the federal government. The banking lobbyists came to us and said this is absolutely impossible, impossible. We do not have the technical capability to communicate with another governing body or another bank and it's just too onerous for us and absolutely no way could we pass this bill. In the afternoon, interstate banking came before the very same committee. The very same lobbyist, the same bankers, came before the committee and said, we can do anything. Instantly we can communicate with Hawaii, with Texas and we can get an answer. We can do anything for interstate banking and I have not been able to forget that day. I feel that the same thing exists today. The bankers and the State of New Hampshire can do anything that they want to do, or choose to do should there be enough profit in it for them. That's good business; I accept that. However, the deregulation of the banking industry has hit the nation. It's tough. You pick up the paper (pause in tape) have that misunderstanding and the person who is lost in this is the little consumer. I feel that the State of New Hampshire, the banking industry of the State of New Hampshire, is sitting on a bed of roses. Nationally and internationally we are in the greatest shape. Our banking industry is sitting on top of the bed of roses. Why in the world would we disrupt that now? De-

regulation is still having its effects felt across the nation. Why would we take that chance to disrupt something, to change something that is irreversible? If this passes, it is totally and completely irreversible. Why take the chance? Why risk an industry that is sitting on those roses and enjoying the best economy in the nation? Why would we take that chance and disrupt an industry that's the envy of the nation in order to do something that is irreversible? I feel that this legislation does not need to be passed this session. I think there is a chance that it would injure not only the state but the individual consumer and the whole banking industry within the State of New Hampshire. I think the smart, prudent move, the move that could be made at another time, if the times indicate that the State of New Hampshire needs a change. But I think the prudent, wise, the sensible thing to do today is to defeat this, there will be another day if it seems appropriate at another time. Thank you.

SENATOR JOHNSON: Senator Pressly, you made a comment to the New Hampshire banking industry sitting on what you referred to as a bed of roses. When you make that comment, are you referring to such headlines in the New Hampshire Business and Finance pages of our newspapers that the Amoskeag bank shares net is up 44% in 1986; that Indian Head banks earnings are up, that Bank East 1986 per share net is up 49% and that Granite State bank share net is up 249%. Is that what you mean by New Hampshire sitting on a bed of roses?

SENATOR PRESSLY: Senator Johnson, I hesitate to use the technical terms, but I know that the newspaper articles that I have been able to read indicate almost that in any category, be it the profit of the bank, be it the number of foreclosures, the number of banks that have gone under, New Hampshire banks of all sorts are enjoying prosperity today and, on all figures that I have read using any base of comparison, I think we are so fortunate that our banking industry and our economy is doing so well and is doing as well as it is.

SENATOR WHITE: I know we've been here for a long time today discussing this one issue and I wouldn't take your time except that I think that it's the most important issue that's before us today and as other people have said, it is an irreversible action and once we do it we can't take it back, it will be here forever. Let's talk about why interstate ownership and control of New Hampshire banks is bad business for the State of New Hampshire. Let's get right to the bottom line of the issue. That's why we're here today in the Senate debating this so called new version of a stale, old idea. Let me ex-

plain the difference between interstate banking and the interstate ownership and control of New Hampshire banks. We have interstate banking right now. In fact, we've had interstate banking for years. Interstate banking means this: any bank can make a loan and accept deposits from anybody, anywhere in the country. That's a present law and that's the financial reality for the business community. What we don't have is interstate ownership and control of New Hampshire banks where the important financial decisions about New Hampshire's future economic growth and development are made by out-of-state power brokers. The proponents of interstate ownership have told you that we need this legislation because it will bring new capital into the state. I'm here to tell you that we do not need any new infusion of new capital. New Hampshire is capital rich. So capital rich that our interstate banks are enjoying record profits without any outside help. First New Hampshire, for instance, just reported its 1986 profit statement, its best year ever. But don't believe me when I can tell you that New Hampshire is capital rich. Listen to New Hampshire's banking commissioner, Roland Roberge. Here's what he has to say and I quote: "our state banks are in a robust financial condition, it's the growth generally throughout the state that's going on. Our bank assets far outstrip other banks nationally and regionally rival the asset growth of Massachusetts and Connecticut banks". Those are his words, not mine. In 1983, without the interstate ownership and control of New Hampshire banks, the assets of the New Hampshire banks stood at 8.4 billion dollars. In 1985, without the interstate ownership and control of New Hampshire banks, the assets jumped to 11 billion. In 1986, again without the interstate ownership and control of New Hampshire banks, our bank assets climbed to 13 billion dollars! This year, without the interstate ownership and control of New Hampshire banks, Commissioner Roberge estimates total bank assets will be \$15 billion. Now, those aren't my numbers; those are the numbers compiled by the New Hampshire bank commissioner. Where is the need for new capital? Our banks don't need new capital. They are capital rich right now by any measure. Many people have explained the net new funds that are in Maine and I suggest from the comments that were in the Maine report, that I'm sure all of us have received, it says that the reasons for the net new assets are a strong economy, particularly in the southern Maine which is the driving force for this growth. the third consecutive increase, which has generally been fueled by the strong loan demand resulting from the strong economy. The entire nation is in a time when we are all growing economically. We are in an economic boom. What happens to the bank deposits when we suddenly go into a depression? Are there any controls in this bill



that says we cannot send \$500 million down to the Boston bank or whatever other bank controls us because they suddenly need some money to get out to a third world nation. There aren't any controls that say how the money might flow out at any given time. I have concerns about the solid fiscal, conservative approach that New Hampshire banks have and that I do not see inherent in the Massachusetts banks. Proponents of the interstate ownership and control of New Hampshire banks say that interstate banking will result in increase competition among banks. They praise Maine as a state which proves that interstate ownership of banks work.

Well, let's take a look at Maine. New Hampshire and Maine have about the same number of people. We're just over a million people and Maine has 1.125 million and that's where the comparison stops. We have 87 strong, healthy, commercial and savings banks in New Hampshire. Maine has 42 banks; 19 of them are commercial banks and 23 are savings banks. But here is where it gets interesting. In 1975, when Maine first adopted interstate banking, there were 78 banks; 46 of them commercial and 32 of them savings. That means that in eleven years almost 50% of Maine banks have closed their doors since interstate banking became Maine law. That's not all. Of the current 19 commercial banks, seven of them are owned by out-of-state banks and those 7 banks, according to the Maine banking commissioner's own testimony, those 7 banks control 88% of all the deposits in the state. Do we want financial decisions about New Hampshire's future growth and development made in Boston and eventually perhaps in New York, by a handful of insensitive bank executives who don't understand the state, let alone live here? Don't think that that can't happen because it can! The interstate ownership bill these big banks want our state legislature to pass says that no bank can control more than 15% of all the deposits in the state. Well, your math is as good as mine. What that means is that seven banks can control all of the deposits. Remember Maine's experience with interstate ownership of banks. Six out-of-state banks already control 88% of all Maine's commercial bank deposits. It hasn't been touched on here today, but many people have said the reason we really need to have interstate banking is because of the non-banks and their non-regulations in this state. I feel that perhaps something should be done to regulate the non-banks and maybe that's the approach we should have taken rather than going to interstate banking. An interesting thing happened in Washington the other day. They are getting a bit concerned about what's going on in regards to interstate banking. I believe Senator Proxmier has stood up and said it's time to beware of this huge rush throughout the country of going

to interstate banking. Ralph Nader, a strong consumer advocate, is violently opposed to interstate banking. He's one of the people I follow, Roger. I just thought I'd quote views other than my own who oppose interstate banking. Yesterday, in the United States Senate, the banking committee voted to prohibit non-bank banks and, in the bill that they passed in the Senate yesterday, it would take it back to 1983. I think if we all look at what has happened to interstate banking, basically most of it has occurred since 1983. The bigger banks in the country, foreseeing this would happen, have gone into the states that do not currently have interstate banking and have provided the non-bank banks. Washington is now concerned with this great monopoly that they could be creating and therefore are putting out a bill to the full Senate in regards to repealing non-bank banks going back to 1983, which I find is quite a surprise and quite a conservative vote from the United States. Here in New Hampshire, we're going a little bit more liberal which is my concern. So, I would urge you to vote against the interstate banking bill. It has not been here long enough for any of us to study. The Senate did not have the bank bill the last time around so that we did not get into this debate. I believe it passed on a voice vote in 1983 from the Senate, but I think the time has come for us to step back and wait awhile and determine what the ramifications will be across the country. It is an irreversible action, I think Senator Pressly put it very well in her comments and I urge great caution in this matter. Thank you.

SENATOR DISNARD: I'll be brief. I've heard strong words that you people have been mentioning. I think in the end, I'd like to say that I'm a strong American. I've heard Senator Pressly mention and I'm happy that Nashua has a wonderful economy. While I heard Senator Pressly speak, I wrote some words down and looked at these. I'm very happy that you have a strong economy. While you were speaking I couldn't help but think we've lost a shoe industry to the Taiwans and Philippines. We've lost a shoe and heel industry to Korea, Italy, and Spain. We've lost a textile industry to almost every other country. Our area of this State was the head of the machine tool industry in the entire world and when I hear people talk about economics, I can't help but think let's wave the flag for a minute and I know it may seem corny but as a Veteran of combat of two wars I believe it. Why do I believe it? These people in these countries and these banks that are taking the industries from my area under present law can come in and buy banks in this State. My question to my fellow colleagues is, why should we allow the foreign banks to

have an opportunity that American banks do not have to come in and purchase banks in this state? Think about it. No questions because I know the time is limited.

SENATOR DUPONT: Senator White, you spent a great amount of time talking about the profits of the banks and one of the things that I learned in school was profits are important but cash flow was more important. You can have a business that has a tremendous amount of profit and still go out of business because you don't have the cash flow to support that level of business that you're operating at. Are you aware that most of the New Hampshire banks, or the majority of the New Hampshire banks, sell off most of their mortgages because they need that capital from selling the mortgages off to continue to lend in the State?

SENATOR WHITE: If you say so.

SENATOR DUPONT: That is a true fact, the majority of the banks sell their mortgages off to Fanny Mae to recreate some capital so they can continue to lend. Are you also aware that most of the banks or all of the banks in the State have lending limits that are restricted based on the amount of capital that they do have?

SENATOR WHITE: Yes.

SENATOR DUPONT: And that there are many, many cases of not only developers, but industry in the state that has had to go outside of the state to meet their capital needs because New Hampshire banks weren't able to provide. You are aware of that? You have to be aware of the fact than that perhaps if interstate banking were to pass that the available capital that would be present for our business and individuals that do business in the State would have to increase, is that not true?

SENATOR WHITE: Yes, it would have to increase. We have a small business and have never had any problem locating funds to expand our business so I as one small business owner will tell you that we have found funds in our local bank and would hope that we could continue with our local bank.

SENATOR DUPONT: That perhaps may be true Senator; if anyone would care to come and talk to me after this I won't publicly give them names of the companies right now, but I can give you some names of some small companies that have had tremendous amount of problems and now are doing business with Boston banks.

SENATOR KRASKER: Senator White, earlier in your testimony you mentioned the banking commissioner and you didn't state his position and I wondered then if you were aware that he is supportive of this legislation in its present form and that he so testified.

SENATOR WHITE: It was my understanding that he was not for this.

SENATOR KRASKER: He sent his statement to the committee which was read indicating his support. I didn't know if you were aware of this.

SENATOR WHITE: I have not asked the commissioner directly about his support of the bill. I did ask him one question however, Senator Krasker, that I wasn't going to bring out today but I will since you asked about him. I said to him, what happens when eventually we could possibly have all the banks in the country dominated by two banks, one of them owned by the Japanese and one of them owned by the Arab countries. The reason why I asked that was because this is beginning to happen and he told me that the problem is our trade deficit so that the foreign countries are trying to find ways or places to put their money and, quite frankly, that scared me. When you look at the past problems that David Rockefeller and his bank had in regards to the Panama Canal. Are we not going to go just from interstate banking to interworld banking, which I agree this bill doesn't cover it, but I have great concerns where the money, where the good deposits that we have here in New Hampshire, where are they going to go? And who are we going to be supporting? I had a great uncle that died down building the Panama Canal and it was all because of bank procedures that we lost that because we had to bail them out. We're going to be bailing out Mexico and the rest of them. I did not ask the bank commissioner his stand on it, but if you say that he supports it then I will agree with you.

SENATOR KRASKER: Thank you for admitting that; that the Panama Canal and this bill aren't related.

Question: Committee Report to Third Reading.

Senator Johnson requested roll call.

Senator Hounsell seconded.

Those in favor: Senators Heath, Freese, Hough, Dupont, Chandler, Disnard, Blaisdell, Nelson, McLane, Podles, Bartlett, St. Jean, Torr, Delahunty, and Krasker.

Those opposed: Senators Hounsell, Roberge, White, Pressly, Johnson, Stephen.

Rule 42: Senators Bond, Charbonneau and Preston

15 Yeas

6 Nays

3 Rule 42

Committee Report Adopted. Ordered to Third Reading

SB 116, Relative to fees for the provision of electronic fund transfer services to financial institutions. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: We felt everyone was aware of contracts they signed when they joined a particular automatic teller machine system. The managers of these groups are aware of the fact, before they signed the contract, of what the problems may be. It is interesting to note that not one lobbyist from New Hampshire spoke for or against this. It seemed to be mostly between Connecticut and Massachusetts companies. The issue which they wanted us to settle is in court and the committee felt that the legislature should not be used to settle problems in court areas. That was our main reason for suggesting inexpedient to legislate and we hope the Senate approves.

Adopted

### ANNOUNCEMENT

SENATOR BARTLETT: I would like to take just a moment here and thank every member of this body for the manner in which they conducted themselves during SB 43-FN. I think it was very professional. I think the courtesy shown to each other was very good and I thank you all for your participation and your real attention and professional manner. Thank you.

### COMMITTEE REPORTS

SB 90, Relative to amusement parks. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: We had a hearing on this bill and there was a lot of people who came and spoke in favor of this. There was no one who came and spoke in opposition. I would note that what I at least feel that we're talking about and I think the sense of the committee, and I'm going to use these as my words, is that this is really tort reform for amusement parks. We had people from throughout



the State including Tilton and Ossippe and Benson's, who came down and talked about their inability to get insurance. The amendment that appears in the calendar allows for immediate passage so that these parks can open for business this Spring and we felt that it is critical that we pass this and urge your support.

SENATOR HEATH: Senator, can you tell me if this in any way applies to the kind of amusement rides that move from fair to carnival?

SENATOR HOUNSELL: Thank you for that, Senator Heath, because that is a big part of this bill and a big consideration that the committee did have and excuse me for not addressing that. It is important that we realize that this addresses what is known as fixed amusement parks and not the circuit carnivals that appear and set up. They remain in effect in the present status quo. This bill is addressed to those operations that are on a fixed spot.

SENATOR HEATH: Did your committee give any consideration after viewing the terrible price that these amusement parks pay for insurance on improving the inspection program for these rides?

SENATOR HOUNSELL: There was no testimony that indicated that that was a concern on the inspections on these amusement rides and are not inadequate at the present time.

SENATOR HEATH: Would you believe that they are terribly inadequate and that that is the reason why they are paying such exorbitant rates?

SENATOR HOUNSELL: I would believe that if you said so, but I would have appreciated some sort of comment like that at the hearing because that's the first that I've heard it.

#### AMENDMENT TO SB 90

Amend the bill by replacing section 3 with the following:

3 Liability Coverage. Amend the introductory paragraph of RSA 321-A:5, III to read as follows:

III. Prior to obtaining any decals, [an] a mobile base operator of carnival equipment or an amusement device shall provide to the director[:], on a form prescribed by him:

Amend the bill by replacing section 4 with the following:

4 New Paragraph; Liability Coverage. Amend RSA 321-A:5 by inserting after paragraph III the following new paragraph:

IV. Prior to obtaining any decals, a fixed base operator of carnival equipment or an amusement device shall provide to the director, on a form prescribed by him:

(a) a certificate of current liability insurance coverage signed by any authorized agent of an insurance company providing the coverage, in a minimum amount of \$100,000 per person and \$300,000 aggregate;

(b) A copy of the insurance policy, including a description of the carnival equipment or amusement devices covered; and

(c) A report prepared by an inspector which indicates that the carnival or amusement ride meets the safety specifications established by the director pursuant to RSA 321-A:2. The report shall be prepared by an inspector who is acceptable to the director.

5 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading

SB 178, Permitting the president of the New Hampshire Education Association to be eligible to participate in the New Hampshire retirement system. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill is intended to permit the individual elected to the position of president of the New Hampshire Education Association to be eligible to participate in the New Hampshire retirement system. The New Hampshire Education Association will pay the employees portion of the expense so there is no State cost involved. The executive director of the New Hampshire Retirement System testified that the procedure had been followed previously for other executives, such as New Hampshire League of Craftsmen, so we would not be setting a precedent. It is the Insurance Committee's recommendation and desire that you support their position and vote ought to pass.

Senator Heath requested roll call  
Senator Blaisdell seconded

Those in favor: Senators Bond, Freese, Hough, Disnard, Roberge, Blaisdell, Pressly, Nelson, McLane, Podles, Johnson, Stephen, St. Jean, Torr, Delahunty, Preston, and Krasker.

Those opposed: Senators Hounsell, Heath, Dupont, Chandler, White and Charbonneau.

17 Yeas

6 Nays

Adopted. Ordered to Third Reading

SB 182-FN-A, Relative to medical examinations and administrative cost assessments under the New Hampshire retirement system. Inexpedient to Legislate. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: At the request of the sponsor, the committee vote on SB 182 was inexpedient to legislate. I believe there will be additional and similar legislation coming forth from the House at a later date.

Adopted

SB 88, Relative to periodic payments of certain future damages. Interim Study. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: After reviewing the proposed legislation and having further discussion with the insurance commissioner and members of the tort reform joint committee, it was felt that this bill should be sent to interim study so as to allow the committee more time to evaluate the legislation in more detail.

Adopted

SB 135, Relative to limiting damages recoverable for non-economic losses. Interim Study. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: After reviewing the proposed legislation and having further discussion with the insurance commissioner and members of the tort reform joint committee it was felt that this legislation should be sent to interim study so as to allow the committee more time to evaluate the legislation in more detail.

Adopted.

SB 78-FN-A, Relative to benefits for a spouse upon the death of a retired group II member. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill provides upon the death of a retired group II member who has participated in the plan that his spouse will receive, in addition to the lump sum payment currently made, an allowance equal to 50% of the member's retirement allow-

ance payments. This allowance will continue until the spouse's death or remarriage. The amendment to this bill makes it effective upon passage.

SENATOR HOUNSELL: I'm a little confused and maybe you can help me. Don't people in retired group II now have the option for this benefit.

SENATOR DELAHUNTY: They have the option, Senator Hounsell, if they so chose but it costs them more if they take the option. I will defer to Senator Dupont, who can better answer it than I.

SENATOR DUPONT: Senator, under the present system, if they choose that option then they receive a reduction of approximately 15-20% depending on the age of the spouse. So, it reduces the amount of their monthly benefit.

SENATOR HOUNSELL: Senator Dupont, I've heard that the cost of this would be around a half a million dollars. Is that accurate or close to accurate?

SENATOR DUPONT: Senator, to the best of my knowledge, that number was from the retirement system and they appropriated it out of a special fund, not out of general fund money. Which I know is the same thing, but it is monies that would come out of the special fund.

SENATOR HOUNSELL: It could very well and probably will cost some sort of fund somewhere.

SENATOR DUPONT: As I indicated, it comes out of the special fund. I'd just like to address this just briefly. Under the present system, if a member of the group II system passes away before he reaches retirement age his spouse now gets this benefit. If a person goes out on a disability before they reach retirement age and dies his or her spouse gets this benefit. What we had and where this came from is the police associations, the fireman's groups in the state, fish and game officers all sat down and came up with a list of priorities of what they felt they would like to see come out of the special fund. This is their priority, this is what they foresaw as their number one priority for this session. Basically, all they are asking to do is allow the person that reaches retirement age or reaches his 20 years or works longer, to basically have the same benefit that's given to someone that retires under a disability or dies before he reaches retirement age, whether that be by length of service or age.

SENATOR KRASKER: Senator Dupont, I wonder if this includes the eleven people under the old system?

SENATOR DUPONT: Senator, this particular issue of the eleven people under the old system came up. I spoke to the group that originally put this together and they felt that an opportunity had been given to those eleven people to join the new system. At that point in time I felt that I was unable to work out a compromise. However, we are going to get this down in Senate Finance and I think we can probably come up with a way of addressing that at the time. They wanted to get it out of committee and we didn't have an opportunity to address those eleven.

SENATOR KRASKER: Thank you, because you understand my interest.

SENATOR DUPONT: Yes I do.

SENATOR HOUNSELL: Senator, I want you to understand and I hope you do understand that I'm trying to understand this bill myself at this point. The problem that I have with this right now surrounds, it is my understanding at least, that this is an option that is available currently under group II. Now I admit I'm not up on this, but your name is on it and can you help me with this?

SENATOR DUPONT: Senator, my name's on it and as always I'm proud to have my name on a piece of legislation that I believe in. This particular piece of legislation, as I indicated, there is an option under the existing system where if someone reaches their point in time where they are going to retire to elect to have this benefit for their spouse. However, they (the retirement system) then take a look at the age of the spouse and determines what the reduction in the monthly income for the retiree should be. Typically it runs 15-20% of what they would get if they retired without that option. So, what they came to me and said is that this presents a hardship for the retiree who has no other source of income to take that large of a reduction in their monthly payments. So, a lot of people don't choose this option as a result of that. Because they need the money to live on.

SENATOR HOUNSELL: Now tie that please, if you would, to what you call the surplus and explain to me a little bit more what that is.

SENATOR DUPONT: I didn't refer to it as a surplus, what I referred to it is the special fund that is used now at the present time as a result of some legislation that took place a few years ago. That



special fund has been used in the past few years to fund similar requests like this to basically enhance the benefits that the retirement system offers. So, we've chosen to take this out of that special fund. The monies will be there to pay for it, I'm told, and that's where it'll be coming from.

SENATOR HOUNSELL: Can you tell me who told you.

SENATOR DUPONT: The retirement system, the numbers came from them.

SENATOR WHITE: If you follow the retirement at all, you'll know that first of all there is great resentment from the group I employees towards the group II employees because they only have to be in the retirement for 20 years before they can take the money out. Perhaps resentment is too strong a word, but anyways, they look anxiously on the benefits that are granted to group II retirees. If I'm reading the bill and am hearing what people are saying, then if we grant this marvelous option to the group II people; I see the group I people coming in and saying you've allowed the group II people to come in and say the retiree will get his full benefit and then upon his death the widow will get a reduced benefit. My father was a state employee for another state and, upon his retirement, he had the option, same as in New Hampshire, of determining if he should take his full benefit or provide for my mother. Knowing that he was older, he opted to take a reduced retirement. That already is allowed. This gives them the best of both worlds. Whoever would ever take the benefit for their widow? They would take their full benefit and then, upon their death, it would go on at a reduced level to their widow. I see great ramifications in the entire feedback in this particular piece of legislation in regards to the group I members, especially the teachers. When we were dealing with retirement, it was my understanding that the number one priority of some of the group II members was in regards to the health benefits and I wonder if they even came in with that particular problem. They said we are not covered, the local policemen and firemen are not covered with health benefits and that was their greatest concern. I'm afraid if this is allowed to go on we're opening a great can of worms to the entire retirement system. They have the option now of letting their widow or their spouse take it upon their death and I just think that this is a bad piece of legislation and I urge you to vote against it.

SENATOR DUPONT: Senator White, I question a couple of points that you made. Are you aware of the fact that the members of the group II retirement system contribute 9.3% of their total income

towards their retirement and Senator White I know you spent some time in Finance, can you tell me what the rate is for teachers that you referred to?

SENATOR WHITE: I believe it's 4.6. However, Senator Dupont, to further clarify that, up until the federal law was passed last year and I don't know just when the effective date, the firemen and group II members were not in the social security system so that that has a heavy role to play in this whole debate. Granted they put in more but if you add the retirement of 4.6 to the social security of 7. whatever you come out to a figure that is greater than the 9.46%, so that, in effect, group I members are contributing more than the group II and the group II can get it upon 20 years.

SENATOR DUPONT: Senator, you've been around a long time, again, can you tell us why they created a group II system?

SENATOR WHITE: The group II system was created for those people that are put in hazardous situations and as I said, some people that are in group II are secretaries and clerks and others that are not directly put in the line of hazardous duty and unlike what Senator Blaisdell said, I believe this particular piece of legislation, the final version of it, was enacted in 1986.

SENATOR NELSON: Senator Dupont, I just wanted a clarification. Who has requested this legislation?

SENATOR DUPONT: Senator, there was a group that got together that represented all of the various groups that are involved in the group II system. The state police, the safety inspectors, the fire fighters associations, police association, they all got together and sat down and this is what they worked out for their priority.

SENATOR BLAISDELL: I rise in support of the committee report and for the first time in my memory this is the first time that these people have come in and spoke together. I think you just named everybody that was there. No one spoke against the bill. I think it's a good piece of legislation. The money is there Senator Hounsell. It's not out of the general fund; it's out of their own fund, \$26 million. What I said was that I thought the special fund was put into existence in 1983. Maybe I'm wrong, Senator White, but that's what I said.

#### AMENDMENT TO SB 78-FN-A

Amend the bill by replacing sections 2, 3, and 4 with the following:

2 Funding. Notwithstanding any provisions of RSA 100-A:16, II(h) to the contrary, the total actuarial cost of providing the additional benefits provided in section 1 of this act shall be appropriated from the special account created by RSA 100-A:16, II(h). Funding for the additional benefits shall be based on a 5 year amortization commencing on the effective date of this act, at the rate of \$394,066 per year for group II permanent policemen and \$326,215 for group II permanent firemen.

3 Application. The additional benefits provided in section 1 of this act shall apply prospectively to group II members retiring on or after the effective date of this act.

4 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Referred to Finance under Rule 24

SB 161-FN, Relative to state annuity benefits for group II members of the New Hampshire retirement system and making an appropriation therefor. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill provides the group II members of the New Hampshire retirement system to receive a state annuity which together with their member annuity equals 2-1/2% of their average final compensation multiplied by the number of years of their creditable service not in excess of 40 years. Basically, at the present time a member of group II after 20 years has not accumulated required retirement benefits at the same rate as they do during the first 20 years. For the first 20 years, the accrued is 2.5%, after 20 years it drops down to 2% and is capped out at 75%. This bill encourages employees of group II to remain in employment within the system and we will encourage those with the most experience and those who have dedicated the most number of years in service to stay with the system.

Adopted. Referred to Finance under Rule 24

SB 136, Relative to joint and several liability. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: SB 136 revises the present law by providing that after a portion of damages and legal action, the damages attributable to a liable party would be based on that party's portion share of fault for the cause of injury. Therefor, if the defendant was 5% responsible for causing an injury, that defendant would only be

responsible for paying 5% of the award. It is the hope of the committee that the Senate will support its recommendation of ought to pass.

SENATOR FREESE: This bill is a little difficult to understand and I felt that in fairness to the Senate body that I would just like to take a few minutes to explain the bill and give you a little history.

In the last session of the legislature, we passed an act relative to tort reform and insurance, which is HB 513-FN, and in section 2 of that act there is a provision that required the judicial branch to apportion damages in accordance with the proportionate share of fault of each of the parties involved in an action. However, in the very next paragraph of that act, the judicial branch was instructed to enter judgment against each party liable on the basis of the rule of joint and several liability. This is very inconsistent. On the one hand, we have asked the court to determine to what extent parties are at fault; then on the other, we have said that this determination would not necessarily be a factor in the amounts of damages a party might be expected to pay. SB 136 would correct this inconsistency by amending it to say that the damages attributable to a liable party would be based on that party's proportionate share of fault for the cause of injury. Therefore if the defendant was 5% responsible for causing an injury, that defendant would only be responsible for paying 5% of the award, as Senator Delahunty has reported when he reported the committee's position.

The exception to this procedure would be in any situation where defendants knowingly acted together to cause an injury. Under these circumstances the rules of joint liability would continue to apply. Thus the bill modifies the joint and several liability rule and it does not eliminate it. The majority of states have made changes in their doctrine of joint and several liability in recent years. Alabama, Colorado, Connecticut, Kansas, New Mexico, Utah and Wyoming have completely abolished joint and several liability while 17 others have made some major modifications in the use of joint liability.

There are at least two good reasons why this bill should be enacted. One is fairness and the other is predictability. On the fairness issue, our tort system is based on the concept that the victim should not bear the burden of injuries caused by the negligence of others and that the negligent party should pay. But I would suggest to members of this Senate that when there are several negligent parties responsible and one party is required to pay at the rate greater than

the partys' responsibility for causing the injury, we may have compensated the person who originally suffered the injury but we also have created a class victim. Under the rule of joint liability a party may be responsible for causing an injury only in a minor way, but can end up paying the full amount of the award. This is particularly unfair when the liable party can document that it took reasonable safety precautions and that the injury occurred because of actions of others over which he had no control. This is just unfair.

On the issue of predictability, we have a similar situation. You have to look at the likelihood of the individual or company, how it might become involved in a law suit where that individual or company might be liable for damages beyond its actual responsibility for causing injury. Obviously, this makes the task of estimating the risk more difficult and more complex. The difficulty or complexity of assessing the risk can be directly related to higher insurance premiums. With this bill we have an opportunity to make the tort reform system more equitable, our insurance system more predictable and it still allows victims to recover injuries sustained as a result of negligence on the part of others. It seems to me that this situation is a situation where everybody wins. I hope you will vote the committee report.

Adopted. Ordered to Third Reading

SB 54, Relative to the investment of non-profit health service corporations. Ought to Pass. Senator St. Jean for the Committee.

Senator St. Jean moved to recommit the bill to committee.

Adopted.

SB 58, Granting Cheshire Fair security guards the authority to detain persons on Cheshire Fair property. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: SB 58 would grant Cheshire Fair guards the same duties as those guards of stores and what not. It would be a session law, it's similar to those given to retail merchants. They would be able to detain individuals and that would be it.

Adopted. Ordered to Third Reading.

SB 65, Repealing the authorization for a committee to investigate the confinement of children. Ought to Pass. Senator St. Jean for the Committee.



SENATOR ST. JEAN: SB 65 is simply a housekeeping measure. It was a committee that established by session law in 1975 which was to investigate and recommend legislation relative to children in placements in the youth development centers.

Adopted. Ordered to Third Reading.

SB 94, Providing the legislative budget assistant with access to certain records. Ought to Pass. Senator Dupont for the Committee.

Senator Dupont moved to recommit the bill to committee.

Adopted.

SB 176-FN-A, Changing financial disclosure requirements. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This bill streamlines the financial disclosure requirements dealing with gifts, testimonials, and honorariums. Senator Freese has done a yeoman's task in putting this piece of legislation together. It details what a business is, what a business association means, what income is. In no uncertain terms everybody who is under this, every elected official, county official, knows exactly what has to be filed and it has to be filed on June 15th of each year.

SENATOR PRESTON: Did we not defer action on the other disclosure bill?

SENATOR ST. JEAN: You're correct Senator.

SENATOR PRESTON: This says, shall take effect 60 days after passage. Does that time go beyond the date we're suppose to honor and the other bill we deferred?

SENATOR ST. JEAN: This does. So, our next filing will be June 15th.

SENATOR PRESTON: So, in the event that this passes the House, and is not acted upon for another month are we in conflict with the date of the bill as this is suppose to replace?

SENATOR ST. JEAN: I don't believe so Senator. As a matter of fact the House is waiting our action on this particular piece of legislation right now over in committee so that our legislation, the bill that we pass, will be similar to theirs.

Adopted. Ordered to Third Reading

SB 202-FN, Relative to the state treasurer. Ought to Pass with Amendment. Senator Dupont for the Committee

SENATOR DUPONT: SB 202 deals with an issue that has been before this body before. The issue of proper salary for our state treasurer. It came into our committee and we amended it to bring in some provisions that also apply to the secretary of state. The issue with the secretary of state's office is not the issue of salary, it deals specifically with the transition period between the time the secretary of state is elected and when they finally take office. Basically what happens under present law is that we may elect a new secretary of state. However, he will not have the resources to begin his job until such time as his term starts. Therefore we have a transition time that doesn't allow for him to have staff or space or even get used to his new job while the existing secretary of state is in office. So, we amended the bill so that it applies to both the secretary of state and the state treasurer and also provided for the pay raise for the state treasurer.

SENATOR ST. JEAN: Senator, in this amendment is it not true that we will be paying two secretaries of state, possibly, and also two state treasurers if they seek employment elsewhere?

SENATOR DUPONT: Senator, we will not be paying the new secretary of state until such time as they assume office and the same with the state treasurer. We felt that they ought to be able to provide for themselves in the interim.

SENATOR ST. JEAN: Is it not true that the state treasurer's salary when she began two years ago was \$32,000 a year?

SENATOR DUPONT: Senator, her salary was the lowly sum of \$32,000 which was deemed not to be appropriate to the level of expertise that we require from our state treasurer.

SENATOR ST. JEAN: Is it not true that under this piece of legislation her salary is going to go to \$46,000 a year?

SENATOR DUPONT: Senator, presently she's making somewhere in the vicinity of \$40,000 a year, so she is going to get a raise and I would also add that we felt that in order for us to attract qualified financial management people to the office of secretary of state, that you need to pay a salary that, while it can't be commensurate with

the private industry, we'll at least be at a level that will allow us to get candidates in to run for the state treasurer. We can get candidates but to bring people in that know how to manage money and deal with bonding institutions, you're just not going to accomplish that for \$32,000 a year.

SENATOR ST. JEAN: Two years ago, wasn't the candidate fully aware of the salary that she was going to receive?

SENATOR DUPONT: Senator, that may be an issue you want to discuss, there are all sorts of stories about whether she was aware or not aware, but I don't think it's relevant to the question today.

SENATOR ST. JEAN: Would you believe the relevancy here, Senator Dupont, is this woman is going to receive a rather sizable pay increase?

SENATOR DUPONT: Senator, what's relevant is to keep good people in state government, you have to pay them what they are worth. This bill in front of you does just that.

SENATOR ST. JEAN: From that you mean individuals that are good people should receive 22% raises in order to keep them. Is that what you're saying?

SENATOR DUPONT: Senator, only if they are underpaid at the time you make that justification.

SENATOR PRESTON: Senator Dupont, does this effect the salary of the secretary of state?

SENATOR DUPONT: No it does not, Senator.

SENATOR PRESTON: Does this raise the salary of the treasurer to the level of the secretary of state?

SENATOR DUPONT: Yes it does, Senator.

SENATOR PRESTON: Senator Dupont, could you tell me how many years in service and a maximum that a secretary of state has served.

SENATOR DUPONT: Senator, that's a good question. I was told that the secretary of state has been here for 10 year and that also posed a question in my mind, but I answered that question in my mind by saying that perhaps at the time when the secretary of state

was first elected, that the salary level that he was hired at was commensurate with what was an appropriate salary at that time, and perhaps the question is that the statue ought to be changed to reflect what we're really looking for from these individuals, not so much to determine parity between the treasurer and the secretary of state.

SENATOR PRESTON: Do you believe that I agree with you that the secretary of state knew what the salary was when he assumed the position and he was satisfied to go through with the appropriate raises?

SENATOR DUPONT: Thank you

SENATOR PRESTON: Senator, would you mind putting this bill on the table so that we might amend it to adjust a range for the secretary of state for time of service and abilities that might reflect competency of both individuals?

SENATOR DUPONT: Senator, that question came up today and what I suggested at the time, and I think Senator Blaisdell and Senator Torr have indicated, we talked about that earlier and suggested that we send it down to Finance, sit down with the secretary of state and the treasurer and determine what they really feel is appropriate, as well as what other members of Finance feel is appropriate.

SENATOR PRESTON: You could support such an amendment?

SENATOR DUPONT: I could support an amendment of that type.

SENATOR WHITE: We ran into problems with this bill during the last session for various and sundry reasons. The last time the bill had both the treasurer and the secretary of state in it. I wanted the bill to address only the treasurer and that was why we put the bill in dealing strictly with the state treasurer. I would hope that we don't deviate beyond the reason that the bill was put in to start with and that was getting the treasurer and the secretary of state, if you want to do that, to the maximum of that salary level so that we would take politics out of those two offices once they've been elected by the legislature and also to provide for a transition period. I would object to using this as a vehicle for another retirement bill and I would vote down the amendment if that's going to be the intention of the members of the Senate. Because the intention was merely to take the politics out and now you're interjecting another layer beyond the

intent of when the bill was submitted and I say if the secretary of state wanted a retirement bill submitted, then that bill should have been submitted.

SENATOR PRESTON: Senator White, did I hear you indicate that someone from this side of the room might be interjecting politics into this issue about raises?

SENATOR WHITE: Not raises, I said in regards to the retirement. I don't want this muddled up with a retirement amendment. I want it strictly to deal with what the bill was submitted for and if someone wants a retirement issue, I would hope that in the next session that would be introduced as a separate bill.

SENATOR PRESTON: Forgive me because in the last session, wasn't it true that politics was really interjected into a subject.

SENATOR WHITE: Absolutely, that's why I separated out the secretary of state and the treasurer in this bill because I did not want to have that conflict arise again that came up last time.

SENATOR ST. JEAN: Senator, wouldn't you say that a raise of 41 or 42% just over two years is rather extravagant in the State of New Hampshire?

SENATOR WHITE: Senator St. Jean, I believe I answered most of your questions when I was on the griddle in Internal Affairs.

SENATOR DISNARD: Senator Dupont, under the analysis, the last sentence in the first paragraph; henceforth such salaries shall be paid from the time an individual's elected state treasurer until such time as he or she leaves the office. Does that mean they never get a raise?

SENATOR DUPONT: Senator, they would get the normal step increases that all state employees get and they're not the only ones that would be at the top of the step. There are many employees that are now maxed out in the category that they are in and only get the yearly step increases.

SENATOR DISNARD: Thank you

SENATOR ST. JEAN: I stand in opposition to this pending legislation. I think, as Senator Preston alluded to, this treasurer's pay raise bill has been tangled in politics for some time. The reason why I



bumped into this issue was when the former Senator from Claremont or Sunapee was involved in this pay raise bill. I think it's rather a sham for us to stand around here and be granting these pay raises by an individual who some say are doing a good job. Of course, the performance on it done by LBA for the first year of her tour of duty was somewhat questionable at best. I suspect we should move slowly in this regard and I would request that the people look at this pending legislation with a skeptical eye.

SENATOR BLAISDELL: I am a sponsor for SB 202 and I agree with Senator White. I think we've taken the politics out of it; there was some politics in it in the last session of the legislature. I'm not afraid to stand on the floor of the Senate and speak of the state treasurer. I think she's done an excellent job. If you go and look at the other state treasurers of all the other states, you'll find that she's at the low end almost of the totem pole and I think that the job that this young lady has done, whether or not she's a former Senator's daughter or not, should not be brought into it. I think it's the appearance of the job that she's done and I will have this in Finance and I can assure you that there will be nothing political entered into it.

#### AMENDMENT TO SB 202-FN

Amend the title of the bill by replacing it with the following:

##### An Act

relative to the state treasurer and the secretary of state.

Amend the bill by replacing section 5 with the following:

5 Secretary of State; Election. Amend RSA 5:1 to read as follows:

5:1 Department; Secretary; Election and Bond. There is hereby established a department of state under the executive direction of the secretary of state. The secretary of state shall be chosen biennially in the manner directed in the constitution and in accordance with RSA 14:2-b. The secretary of state shall hold office until a successor is elected and assumes the duties of the office. The penal sum of his bond shall be \$10,000, and the sureties upon it must be satisfactory to the governor and council.

6 New Section; Transfer of Authority to Secretary-Elect. Amend RSA 5 by inserting after section 1 the following new section:

### 5:1-a Transition of Authority.

I. For purposes of this section, "secretary-elect" means the successful candidate for the office of secretary of state, as ascertained by an election pursuant to RSA 5:1. The term secretary-elect shall apply to such candidate from the day of election until his term of office commences in accordance with paragraph II of this section.

II. The term of office of the secretary of state shall begin at 12:01 a.m. on the first Wednesday following the first Tuesday in January.

III. The outgoing secretary of state shall, upon request, provide suitable office space to the secretary-elect for use in his preparation for the assumption of official duties as secretary of state.

IV. It shall be the duty of the outgoing secretary of state to make available to the secretary-elect all official documents and vital information necessary for a full and complete understanding of the operation of the office of secretary of state.

V. The salary of the secretary of state shall be paid from the time such person becomes a secretary-elect and shall continue until such time as he leaves office.

### 7 Secretary of State; Salary. Amend RSA 5:2 to read as follows:

5:2 Salary. The annual salary of the secretary of state shall be [that] the maximum as prescribed by RSA [94:1-4] 94:1-a, and shall be paid as specified by RSA 5:1-a, V.

### 8 Application.

I. The salary increase provided in section 3 of this act shall apply retroactively to the incumbent state treasurer as of December 3, 1986.

II. The salary increase provided for in section 7 of this act shall apply retroactively to the incumbent secretary of state as of December 3, 1986.

### 9 Effective Date. This act shall take effect 60 days after its passage.

Senator St. Jean requested roll call.

Senator Nelson seconded.

Those in favor: Senators Bond, Hounsell, Heath, Freese, Hough, Dupont, Disnard, Roberge, Blaisdell, White, Pressly, Charbonneau, McLane, Podles, Johnson, Torr, Delahunty, Krasker.

Those opposed: Senators Chandler, Nelson, Stephen, St. Jean, Preston.

18 Yeas

5 Nays

Amendment Adopted. Referred to Finance under Rule 24

SENATOR PRESSLY: I've requested the special privilege of Rule 44 because I would like something entered into the record on behalf of myself. As we all know the conflict of time and trying to be six different places at one. However, I would like my concern for SB 136 recorded. I believe that it is a very significant piece of legislation and if I or someone else in the Senate I think should point out that this tort reform that will affect both civil and tort cases is enormously important and it's with great concern that I feel this has been passed on without more thought and it's no one's blame or fault. It's given the time restraints that we have but at least I do want the body to realize that this is certainly a consumer legislation and that all victims that have any complaint that they take it to the courts. This will change their rights enormously and I certainly encourage the members of this body to watch carefully what does happen to this in the House and I would hope that there would be further dialogue and discussion regarding this. The ramifications are enormous and I thank you very much.

### COMMITTEE REPORTS

SB 113, Relative to Legal Services. Interim Study. Senator Podles for the Committee.

SENATOR PODLES: SB 113 expands the services provided by legal services and authorizes legal services to be formed to promote the legal and civil rights of any disadvantaged persons. The matter of providing legal services is complicated and deserves more time that has been available to committee. The committee recommends interim study.

Adopted

SB 120, Granting immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities. Interim Study. Senator Podles for the Committee.

SENATOR PODLES: SB 120 grants immunity from civil liability to volunteers working on behalf of nonprofit organizations and govern-

mental agencies. It's a well intentioned bill but goes beyond and needs further study. The committee recommends interim study.

SENATOR DISNARD: Does that mean it will be two more years before this can be acted on Senator?

SENATOR PODLES: In the next session.

CHAIR: Sorry, if it's a parliamentary inquiry, this bill will be dead for two years. It will be back in 1989.

SENATOR PODLES: This is interim study; it won't be dead for two years.

CHAIR: You'll be able to study it for two years, but you cannot enter this bill in the second half of the biennium on interim study.

SENATOR PODLES: So, we will study it this year and next year and then it will be out in the next session, am I correct Mr. President?

CHAIR: This bill cannot come back out until 1989.

SENATOR DISNARD: Would you believe Senator that I have a problem with that making these volunteers wait at least two more years. Is there anything we can do?

SENATOR PODLES: This was the unanimous vote of the committee. We did have a lot of testimony and there was a lot of opposition.

SENATOR BLAISDELL: There is a House bill that's coming over on this very particular subject and I'm on it, Senator Disnard. It probably doesn't cover everything that's in SB 120, but it will give us a chance to amend it and I think it should be.

Adopted.

SB 108, Relative to immunity in criminal cases. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: This bill would allow the granting of use immunity rather than transactual immunity in criminal cases. Transactual immunity allows an individual to give testimony and not be prosecuted for the crime for which he or she testifies. In other words, the person is given a pardon for his or her crime in exchange for testimony. SB 108 will change the immunity statute to provide

for use immunity. Under use immunity an individual can give testimony and the prosecutor may not use his or her testimony or evidence that is gained directly or indirectly from that testimony against the witness. But, the prosecutor can prosecute that person who is testifying under use immunity if evidences develop independently of the witness's testimony. Use immunity is the federal standard. It promotes the cooperation of witnesses. The Associate Attorney General, Brian Tucker, appeared in favor of the bill. The bill was reported out of the committee ought to pass five to zero. Thank you.

Adopted. Ordered to Third Reading

SB 114, Relative to recording of sentences of drug offenders. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: We looked at this bill and basically we were in favor of it. Then we found out that we also have SB 237 which we'll be bringing in tomorrow that covers the intent of this bill, so therefore it is inexpedient and it was an unanimous vote in the committee.

Adopted.

SB 121, Relative to legal costs concerning the Maine State Income Tax. Interim Study. Senator White for the Committee.

SENATOR WHITE: We looked at this bill and we have concerns for those citizens that live in the State of New Hampshire and have to pay a Maine income tax. We tried to find out how we could resolve the issue of taking the State of Maine to court and we felt perhaps the way to do it would be to let the attorney general take those cases, but we found that he can not. We felt that this bill should be studied so that in the future a new bill could come in whereby the attorney general's office could take the complaints of individuals. We felt we should not be expending \$50,000 of state funds for the legal pursuits of private individuals and therefore we decided on interim study and it was a vote of five to nothing in the committee.

SENATOR DUPONT: I may need to borrow Senator Johnson's water for this one, because I walked into caucus today and saw this and came very close to having a heart attack. Senator White mentioned in her report that this is an issue that affects private industry. What it really affects is the six million dollars that's going to flow into the State of Maine treasury while we wait to do an interim study on this. What we're really looking at here is a punitive tax that the State of



Maine put in place last year that affects primarily the residents of Senator Krasker and Senator Torr's districts and Senator Heath's district, I'm sure to a certain degree, and what they've done is they've passed a law or amended their income tax law that now says that a New Hampshire person that works in the State of Maine, the income that's earned out of the State of Maine will also be included to determine the tax bracket that you're in when you pay that tax. What it amounts to is not only are we having to help support the State of Maine through taxes that are paid on income earned in the State of Maine, but we're now going to pay on income that's earned outside of the State of Maine. You have to be over in my area to understand the intensity of the fight against this tax and I heard Senator White mention the fact that the attorney general could not fight the battle. Well, we went to the attorney general and asked him to join us in the fight and he can't do it. So, what we said is that it's not appropriate for the State of New Hampshire to just sit on the sidelines and watch their citizens get abused this way. What we came up with was an avenue where we'd get a private citizen to file suit against the State and provide for some of the funding. I have to also remind the Senate that this battle has been fought once before on the tax with private monies and I just can't stand here and say to you in a manner that will get across to you how important this is to my district and Senator Torr's district and Senator Krasker's district. It is front page news in our newspaper on a weekly basis, so I urge the Senate to vote down interim study. If they're not happy with the manner in which we've laid out the bill, I'll certainly amend it to put some more controls in if you feel that's appropriate. But we really have to go forward with this. One of the papers in Portland really summed it up after the legislature passed this piece of work last session and it really is a fine piece of work on their behalf because they're taxing people that have no representation. It's easy for them to sit up there in Augusta and say let's raise the tax on out-of-state residents because they have no body to represent them. It's not like us when we're sitting here passing legislation that affects New Hampshire residents. They're taxing a group that really has no voice and I basically have said I'm going to try to be their voice, but in order to do that, I need some ammunition to go up there and say this is wrong and we're going to fight you. It's appalling to think that the State of New Hampshire that prides itself in not having an income tax can stand by and let its residents get taxed by another state.

To get back to the article, the editorial in one of Portland's papers, they basically said that after the Maine legislature did this it really was punitive in nature. There had been a challenge to the Maine tax,

the New Hampshire residents lost and, after they lost, the legislature then turned around and passed this basic surcharge that we see today. The paper said, shame on you Governor Brennan and the legislature, because what you're really doing is just slapping them in the face again. So, I urge you to vote down interim study and I'll offer another motion after that and I'll be glad to work with anyone that has concerns about how the money is spent.

SENATOR NELSON: Could you perhaps, being in full agreement and understanding what you're saying and clearly on the committee was my sense that we all supported your sense of the bill and it's concept, there was some concern about line 2 of the bill to talk about spending \$50,000 for a private legal counsel for any group of New Hampshire citizens to bring suit against the State of Maine. Would you address that?

SENATOR DUPONT: There is a formal group called SCAUT which is Shipyard Committee Against Unfair Taxation. This does affect, we put the numbers somewhere around 15,000 people and, like I said earlier, it's three million dollars additional over and above what the State of Maine is already collecting. On average, for someone with a normal household income, it could mean anywhere from \$300 to \$700 additional in Maine state income taxes. So, it's a significant portion, but we're hoping that the SCAUT group which has lead the fight in the past will be the ones that come forward. I wouldn't be here if we could get the attorney general to go in and fight the battle. What bothers me a little bit is that the State of Maine went to bat for its citizens when we had a commuter tax and it went to court and it was found unconstitutional. Now the citizens of Maine didn't fight the battle, the state did for them. So, granted the attorney general says he can't do it but I think we have to take a stand on this and that's why this bill is here. It's not a bill that is in any way anything sincere by Senator Krasker and Torr and myself, you have to be over there in that part of the State to realize how much concern there is about this issue. We probably represent 5 - 6,000 people that work at the Navy yard and it's unfair. Whether you like the fact that we're doing this or what Maine has done, it's an unfair tax and we ought to be able to stand up and say to our residents of the State that we're going to help you.

SENATOR NELSON: May I ask the question, do I understand you to say that you are willing to substitute the word "any group" for "SCAUT group"?

SENATOR DUPONT: What I'd like to do, if that's a real concern, is when the attorney general's report came out he indicated a citizen would have to file the suit because the State couldn't do it. We felt that SCAUT could represent a person as it's done in the past to file the suit and support it. If you want us to come up with some language that says the SCAUT group will represent us at a hearing, that's fine. We could work on that.

SENATOR NELSON: Could you cite another situation in the state where the state is giving out money for a private group?

SENATOR DUPONT: Senator, I've been trying to think about that one and I can't off the top of my head. Perhaps somebody else can.

SENATOR PODLES: Would you be willing to have this recommitment to committee and we're going to work on this part by any group of New Hampshire citizens? I think the committee of the whole did not go along with that part.

SENATOR DUPONT: Senator, I don't care whether we recommit it or we pass it and send it down to Finance. If we send it down to Finance, I'll give you my word that we'll work with you to prepare an amendment to be adopted.

SENATOR PODLES: Would you believe that we have attorneys working with us in Judiciary and I think that would be the place to do it Senator?

SENATOR DUPONT: Is it the same one that has advised to send it to Interim Study?

SENATOR PODLES: No, Would you believe Senator, that it was the unanimous decision of the committee?

SENATOR DUPONT: Senator, I would believe that.

SENATOR WHITE: Senator Dupont, you indicated that this SCAUT group has approximately 15,000 people in it?

SENATOR DUPONT: Senator, that's an estimate.

SENATOR WHITE: Would you believe if there are roughly 15,000 or a few more that would only be a \$3.00 less assessment against each person to come up with their legal counsel?

SENATOR DUPONT: Senator, that's probably right and I guess the issue is you're going to have to get them all involved to do it. The intent of the legislation is to provide them with some help to get

started and also to show our moral support for what they're doing. I'm not going to challenge your figures and I can't tell you whether it is exactly 15,000 people or whatever, but it needs to be addressed.

SENATOR WHITE: Another concern of the committee was in regards to the revolving fund. Perhaps you could address the revolving fund as to why you thought that should be in there.

SENATOR DUPONT: We felt, at the time, that the amount of time it's going to take to put this suit forward and if there is an appeal, etc, etc, it may take a significant period of time to finally end the battle. I guess, and I don't want to comment because you're supposed to be asking me the question, but would it be more appropriate and if the body wants to do it, we'll order the attorney general to do the fight.

Committee Report Failed.

Senator Preston moved substitution Ought To Pass

Motion Adopted. Referred to Finance under Rule 24

SB 115, Relative to marriage. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: This piece of legislation was put in at the request of the Manchester City Clerk to take care of some technical irregularities with the way the law is presently written. SB 115 clarifies the degree of marriage which are both allowed and prohibited. Section 1 prohibits a marriage between one man and another. Section 2 does the same for women, section 3 prohibits the granting of a waiver of consent to persons below the age of consent if both parties are nonresidents. Section 4 amends 4, 5, 7 and 8 to prohibit magistrates or ministers from marrying by proxy. Section 5 forbids a time waiver if both parties and their parents are nonresidents. Several city and town clerks testified in favor of the bill and stated that there are problems with immigration in terms of people coming over the state line to marry and marrying the same person three times. The clerks need time to check the records. For example, there was testimony indicating that one person may marry three persons in the same day a week. The bill was reported out of committee as ought to pass with a five to zero vote.

Adopted. Ordered to Third Reading

SB 117, An act relative to the payment of employee wages. Interim Study. Senator Johnson for the Committee.

SENATOR JOHNSON: The primary testimony in regards to this bill came from the Commissioner of Labor who pointed out that there is an increasing number of businesses in New Hampshire that are folding and not paying their employees the wages that are due them. The sponsor, Senator Podles and also the Commissioner of Labor Kelly, indicated that they wanted to do something about this. They weren't all that comfortable with the actual language in this bill and, by inference at least, suggested that this bill go to interim study to make sure that we can come up with a good bill to protect the employees of New Hampshire from unscrupulous employers.

Adopted.

SB 152, An act to modify the subdivision approval process. Inexpedient to Legislate. Senator Johnson for the Committee.

Senator Johnson moved to substitute Interim Study.

SENATOR JOHNSON: There is some merit to the intent behind this bill and the committee would like to take a closer look at it.

Motion Adopted.

SB 168-FN, Establishing a foster parents ombudsman council. Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: This bill is a double duplication, in that there is already a Governor's Advisory Board on Services for Children and Youth. Two members of that board are foster parents and so the advisory board is really the one that should be dealing with any problems having to do with foster parents. There is also a position, of a women named Gayle Degosh, who is the foster parent coordinator advocate. She works part-time and her position has been there since April 1986. She is not hired by the division of children and youth, but is hired under a grant and works under the child and family services. She does a newsletter which is mailed out by DCS and there are 800 foster parents and she is the troubleshooter for them. This bill was really put in because of some individual problems having to do with the rules and regulations of foster parents. It was the thought of the committee, which voted unanimously, that this bill should be inexpedient. Really, the answer for many of the problems with foster parents was the small amount of money that we pay



them. \$149 to take care of a six month old baby for a month is not my idea of how we should be treating these foster parents. For this reason, because it was a duplication, not only of Gayle Degosh's job but of the advisory council, the committee recommends inexpedient.

Senator Dupont moved substitution Ought To Pass

SENATOR DUPONT: I rise today basically because I am one of those Senators that have had some problems in this particular area. I had a really heart-wrenching situation with a lady over in my area that has had some significant problems with this issue and I've spent a considerable amount of time with. Senator Heath got involved in one up in his area this last summer. We had a discussion about this and I applaud his efforts in this area. I don't think Senator Heath introduced this bill for any purpose but to improve the situation that's out there and I think anything that we can do to help solve and resolve some of these problems that we all know exist, even those the department has made a good faith effort, Senator, and I don't dispute that effort. I think what we've got here in front of us is a very cost effective method to try and deal with some of the problems that will actually help the department as they try to administer this very difficult program. So, I would urge my colleagues to move ought to pass on this bill and vote with us in the hope that we can do a better job in this area in the future.

SENATOR HEATH: The reason why I sponsored this bill was because it was clear to me when I got involved in one case and started getting telephone calls from all over the State, Senator Disnard's district and other places outside my district and other places within my district, they are a very, very valuable resource to this state, the foster parents, who we trust with the lives of children who are at the most extreme situation usually before they are taken out of their home. These people are unhappy that we are losing some of the good ones because of frustrations and disagreements with the department. But they ought to have some sounding board outside of the channels of state government that's not obligated to state government, to make suggestions in rules and changes in laws to the state so that we can continue keeping this valuable resource. If someone in the department has taken offense at that kind of objectivity and decided that it was a shot taken directly at them, they are sadly mistaken. The intent here is for \$4,000 a year is to allow foster organizations to appoint members to this ombudsman council and at the end of the year make a report to the legislature and to the Governor with recommended changes. There is no threat to the integrity of

the department which, for the most part, does a good job. It simply gives these people a channel outside of the government appointed channel to make suggestions for changes. These are very committed people and I really fear that we're going to get down to commercial foster homes, people who are in it for the money and no other motive, if we don't have some outlet for these kinds of complaints and for these suggestions in terms of changing the law.

SENATOR DISNARD: Senator Heath, would you believe that I think you have a good idea?

SENATOR HEATH: Yes, I would.

SENATOR DISNARD: Would you believe that I'm concerned that there isn't any job description of authority. This individual, on behalf of the council, should approach the department. The department chairman might say what authority do you have? I'm concerned that there isn't a job description, something to protect us.

SENATOR HEATH: Well, there is a job description, ombudsman. That's what the job is and that is defined in every dictionary in the land. The government official who investigates citizen complaints against the government or its functionary and one who investigates complaints as from consumers and assist to achieving fair settlements is one definition. That's exactly what this council should do. They report to the Governor, to the Senate President, to the Speaker of the House annually with their suggestions and otherwise they are separate from government functions for the very purpose that lends that kind of objectivity so that foster parents can feel that they have a voice that will listen to them, that can collate their suggestions and bring them back to perhaps going through the channels of reporting to the legislature and the executive council.

SENATOR DISNARD: I just thought this individual might be in a difficult position without some authority or procedures outlined that the department chairman would recognize when they come in.

SENATOR HEATH: If we draw the lines too narrowly, all we've done is create another governmental body and I think this is exactly, without pretense, a forum and they will bring a report in at the end of each year.

SENATOR MCLANE: (tape broken) an advisory council to the division of children and youth but there is also a private coordinator for foster parents that is under the child and family services.

SENATOR HEATH: I was aware of that.

SENATOR MCLANE: Can you think of any other group of dissidents, such as the foster parents, that you had been dealing with who don't like the rules and regulations that are given \$4,000, a meeting room and a secretary to further their criticisms of a governmental unit.

SENATOR HEATH: Senator, I am more than glad that you asked that. These people aren't dissidents and I can't tell you how many people called me up and said, I don't want to go on record, but I'm going to tell you a horror story and proceeded to. One of the chief complaints, in fact the chief complaint, that I heard from these people is that the department is not following its own rules. They don't want to change rules. They want the department to abide by its own rules. That's one of the chief complaints. These people aren't dissidents. Almost to a person they were people who had qualifications above being a parent. One woman had a masters degree in child psychology, another woman was a teacher, in fact, it was the department that paid her \$1,500 a month on special cases because she had additional expertise beyond the being a parent. These aren't rabble rousers dissidentss. If you take any criticism of an agency of our government as dissidents; we have an ombudsman in a sense on every licensing bureau with a public citizen that is to represent citizens who are nonprofessionals. We have this throughout our state.

SENATOR MCLANE: Were you present at the meetings with the Governor and did you feel that the final conclusion of those meetings with the Governor was that this group should have a paid state function?

SENTOR HEATH: I guess you're going to have to ask me that again because I'm not sure.

SENATOR MCLANE: I'm asking you, did you attend the meetings with the Governor and did you feel that the conclusion of those meetings with the Governor were that this group, who objected to the rules, should have a paid state function such as the bill calls for?

SENATOR HEATH: One of the things they were asking the Governor was that he ask the department to abide by its own rules. Secondly, the question was on specific cases and that's a good example because that's exactly what it ought not have to be, to have two or three meetings in the Governor's office with the ombudsman council for \$4,000. Those things can be done much better in a forum at

greater length and brought collectively and collated and reduced down into a usable form to the Governor, to the Senate President, and to the Speaker of the House. This makes much more sense than to go to that kind of thing than taking up the Governor's time and having the time to print it up.

SENATOR PODLES: Senator Heath, could you tell me if the \$4,000 appropriation is a one shot thing?

SENATOR HEATH: It would be \$4,000 annually.

SENATOR PODLES: It doesn't say that in the bill.

SENATOR HEATH: It does in the impact statement.

SENATOR HOUNSELL: I rise in support of the passage of this bill. I think that what you have to realize when you talk of an ombudsman you have to talk about independence. You have to allow for this person to be independent from the agency and just to make clear a certain understanding that I have of the procedures; this carries a FN after the number so it will, could very well go to Finance where any problems with the ongoing finance of this can be taken care of. I think what you have to come to an understanding here is that this bill is needed. Not to rattle the cage of any agency or agency head, but to protect the process in the organization that we are for foster care and I think that that in itself should allow us to pass this bill at this time.

Motion Adopted. Referred to Finance under Rule 24.

SB 169-FN, Relative to adoptive parents. Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: This was a very poignant bill and I must say that the committee heard the problems of two adoptive parents whose adoptions did not turn out well. Yet, when you look at the number of adoptions in a year and the importance for an adoptive child, of feeling the permanency of its home and of the legal process that has made it part of that home, we felt very strongly that this would be sending the wrong signal to adoptive children which is, if you're not good, we'll send you back.

Adopted.

SB 131-FN, An act prohibiting the sale of communist-manufactured liquor and alcoholic beverages in New Hampshire. Split Vote: 3 for

Ought to Pass and 3 for Inexpedient to Legislate. Senator Chandler for the Committee.

SENATOR CHANDLER: For the positive half of the committee, rather than the negative; I want to say that Senator Hounsell and myself and Representative Locke and Representative Welch were all sponsors of this bill. We wanted to send a message to the Soviet Union, send a message to the World that we do not approve of what the communists are doing. One way of doing it would be to not allow the state liquor commission to sell alcoholic beverages manufactured by communists, by slave labor. That's the reason we put this bill in. It won't hurt the Soviet Union; it won't hurt the communists monetarily, but it will indicate to all good patriotic people that we don't approve of what they've done, shooting down the Korean Airliner, invading Afghanistan, taking over countries in Africa and so forth and so on. That's why we put this bill in and I hope the committee will go along with three of the members, half of the committee voted for it and half of the committee voted against it. I'd like to hear what the reasons are for the half that voted against it. I hope the Senate here will publicly stand up for what we consider a patriotic measure.

SENATOR DISNARD: Senator Chandler, do you think the federal government should help the midwestern farmers by hoping that they can sell some of their excess grain and wheat to the Soviet Union?

SENATOR CHANDLER: I personally wouldn't trade with the Soviet Union in any way shape or manner. I wouldn't buy anything from them and I wouldn't sell anything to them.

SENATOR BLAISDELL: I certainly agree with Senator Chandler that the Soviet Union is certainly not going to be hurt by what we do here this afternoon. There's no question about that. I won't even talk to the fiscal impact; you've read it. I won't talk about the next thing being Polish hams; you won't be able to sell them. If Italy goes communist, it may be we won't be able to sell Italian wines and things like that. But I want to tell you about somebody that will get hurt. I would hope that you would listen to this. We've sent a strong message by even debating a bill like this and we've done it over the past three or four terms that I've been here because Senator Chandler has put it in. I respect his views as far as being patriotic - you know I'm like Senator Chandler, I'm just like Archie Bunker. I was in WWII and all this kind of thing and I agree with you. I think you should wave the flag; it's a great country; it's everything that he says



it is, but this is not the right place for this. Number one, there is no money that changed hand between the federal government or the State of New Hampshire or Russia it's all barter, I think they barter something like, I think it's Pepsi-Cola syrup. But let me tell you who's going to get hurt. It's that young fella who has a wife and a couple of kids who has a couple of people working for him that sells this in the State of New Hampshire. You're taking away the boy's livelihood and every year, he comes in and shakes like a leaf, looks like he's got St. Vitas dance, I think we ought to give him a break for a change. I feel bad for him, I sincerely mean it. I feel bad for that kid who's trying to raise his family and pay his taxes and be a good citizen of the State of New Hampshire. He's American just like you and I and a good American, but for God's sake, don't pass this. We sent the message to Russia; they know what we're doing. It's not going to affect them at all, but it will affect that kid with a couple of kids and a family that works for him. Think about that, what you're doing. That's what you should be thinking of, send them a message, Senator Chandler by bringing a bill in but then back off and say I sent the message and that's the way it should be. Think about that family.

SENATOR MCLANE: I rise to speak against the motion ought to pass. Senator Chandler said the other day, on the floor that he put in a lot of bills and he said in his testimony on this bill that it is not a new concept. He did put the bill in last session. The bill has not been rewritten to do exactly what he said. In our deliberations last year we tried to rewrite it and so it was common instead of communist manufactured liquor. It spoke directly to Russian Vodka. The bill doesn't and for that reason it would effect Czechoslovakian beer, Chinese beer, my favorite drink, Slivovitz from Poland, Italian wines and so that it would effect a great deal more than what Senator Chandler says it is going to. After the bill passed the Senate last year, it went over to the House and the vote was 18 to nothing in committee to defeat it. But it also meant that Gregg Smith, who is the legal council for Mons. Henri Wines made a lot of money on the deal because they did go to court and the court reaffirmed what Gregg Smith had told us in committee. It is unconstitutional for the State of New Hampshire to make foreign policy and it unfairly discriminates against a business and for that reason it is a violation of the U.S. Constitution. So, for all of those reasons, I would say because it is going to cost the state money because it is incorrectly drafted and because it is foreign policy, I would ask that you vote down ought to pass.

SENATOR HOUNSELL: I rise in support of the motion of ought to pass and I would like to speak briefly about what this bill does and doesn't do. One thing that this bill does not do, it does not question the patriotism of anyone who opposes it. That is not the intent of this bill and I would like to state here, for the record, that anyone who opposes anything that I support in this country or this state will never have me question their patriotism. This bill does not attempt to harm people who are engaged in business and had to have a certain economic advantage by being in business, but I would point to that, Senator Blaisdell, because you did bring up a concern and I would counter that concern with the concern of the Human Rights Violations that the Soviet Union is renowned for and I would ask the Senate to deliberate that they may consider the children and wives of people who are under communist oppression. Which is what the bill does speak to; the bill does speak to communist oppression and the danger that we face when we continue to believe the lie that we can cohabit with them without a threat, without believing their stated purpose of conquering the world and spreading their philosophy. Now I'm not afraid of that, but I think it's a concern that we certainly should be aware of. We should be aware, to focus on this at this time. What we're talking about is a violation of a basic foreign policy program which says you should never extend your lines of commerce further than you can come to the defense of it. Now, part of this barter system that we have with the Soviet Union has extended that. Indeed we do provide Pepsi-Cola, but many of you might not know that there are at least eight Pepsi-Cola plants behind the Iron Curtain and I would contend that they are there at a rather precarious situation should the relationship teeter. I don't believe we can defend Pepsi-Cola in their lines of commerce.

I think of this as an important bill. I think that, for the record, Senator McLane has been confused about what has been passed. This is the language that was passed two years ago by the Senate. The House did not vote on it last year; it was tabled by the Senate, not wisely as it turned out. I think that as far as I'm concerned this is the last time that I will support it, introduce it. I think the statement has been said and said again, but I would think that the statement that memories are short may come into play here. I would ask you to think about the shooting down of the KAL 007 and consider that when you consider Human Rights Violation, think of the people, the innocent men, women and children who were on that commercial airliner who were shot down by the Soviet Union which initiated the first ban by the commission. We are in the business, in this state, of serving and selling alcohol. We are not in the business

of selling Polish ham. I don't know what Slivovitz drink from Czechoslovakia is, but I don't think that is relevant to the question and the question is should we not be aware that what we are doing when we allow our State liquor store to sell communist-manufactured alcohol is that we are pounding the highways, providing for the foster parent program, providing for the education at the expense of slave labor. Which is in violation of the federal act which Malcolm Baldrige and the commerce department and George Schultz conveniently forget about. I would offer that the foreign policy that is the duty of the federal government has been neglected and that Article 10 of the U.S. Constitution provides us, as a sovereign state, with the opportunity to pass such legislation. I will be asking for a roll call, I think it's an important vote and I think that it's important that the people of the State know how we stand as a Senate. Thank you.

SENATOR MCLANE: Senator Hounsell, would you believe that I'm happy to admit my mistake. In 1985, if you would believe it, we did pass this bill. It went over to the House and was rejected by the regulated revenues by a vote of 18 to nothing. The House adopted the committee report without dissent. But last year, it was the Senate Ways and Means Committee that voted this bill down three to nothing and the Senate voted against this bill last year so you are correct, it did not go to the House last year.

SENATOR HOUNSELL: I always recognize you as one who would admit making a mistake, an error; but I would just further clarify the act that killed it and prevented it from coming was a motion that I made and endorsed by Senator Chandler to lay it on the table at the time we were at a late hour, not knowing that we didn't have the vote to get it off the table.

SENATOR BLAISDELL: I want to be sure that when I got up to speak, I didn't speak for the ought to pass motion, Mr. President. I would want to be sure that the record would state that I was not speaking for the ought to pass motion and would be another motion.

Senator Hounsell requested roll call.  
Senator Blaisdell seconded.

Those in favor: Senators Hounsell, Heath, Chandler, Roberge, White, Podles, Stephen, St. Jean.

Those opposed: Senators Bond, Freese, Hough, Dupont, Disnard, Blaisdell, Pressly, Nelson, McLane, Johnson, Torr, Delahunty, Preston, Krasker.

8 Yeas

14 Nays

Committee Report Failed.

Senator McLane moved substitute Inexpedient to Legislate.

Motion Adopted.

### RECONSIDERATION

SENATOR PODLES: Having voted with the prevailing side, I now ask for reconsideration on SB 54 and ask the Senate to vote yes and that's relative to the investment of non-profit health service corporations.

Adopted.

SENATOR PODLES: I would like to speak to the motion of Ought to Pass. The committee met during our half hour break and we decided that this bill ought to pass. I understand that there is an amendment and I would go along with the amendment.

Adopted.

SENATOR FREESE: I have an amendment here for the bill that will allow the Blue Cross/Blue Shield to continue their brokerage selling of the life insurance as a package to their health insurance as they sell it through the agents. The amendment prohibits Blue Cross/Blue Shield from owning any more than 10% of a life insurance company. The problem is that if this amendment were not attached to the bill it would restructure Blue Cross/Blue Shield to the point where they would have much difficulty competing in the market and continuing as a supplier of health insurance to New Hampshire and Vermont citizens. I hope you will adopt the amendment as approved by Senator Podles

SENATOR ST. JEAN: Senator Podles, you've gone through this amendment to your piece of legislation. Are you happy with the way this legislation is presently written?

SENATOR PODLES: Yes, I am satisfied.

SENATOR ST. JEAN: Thank you.

SENATOR NELSON: Senator Freese, I would just like to know if possible, could you give me an example of what this does? You kept mentioning Blue Cross/Blue Shield, I don't mean to put you on the spot.

SENATOR FREESE: Blue Cross/Blue Shield would have to re-structure itself and not be able to broker life insurance along with their health insurance to their group policy clients.

SENATOR NELSON: Has Blue Cross/Blue Shield done life insurance brokerage?

SENATOR FREESE: Yes, they are doing it right now and have been for some years. In fact, if I may further answer your question, it was at the suggestion of a former commissioner of insurance they get involved with this package in order for them to be able to sell their health insurance package.

SENATOR ST. JEAN: Senator Nelson, in response to your question of Senator Freese, would you believe that it's Consolidated Services, Inc. that is the arm that deals in the health insurance and all the other products. What the bill would have done initially was pretty much get them out of that end of the business. I and other members of the committee supported that as it came out of committee but, with the help of Senator Freese we amended it in such a way that it didn't put them out of that line of work. They currently own 62% of CSI. They began that, as Senator Freese mentioned, back in 1975, they got into that whole area. There was some question on the part of life underwriters whether they should be in that business at all. Would you believe?

SENATOR NELSON: Yes sir.

SENATOR HEATH: Senator Freese, aren't you concerned that you're giving a non-profit organization an unfair competitive edge with those people who have to pay premium taxes on all of their package when they approach a person to put together a package of life and health?

SENATOR FREESE: Senator Heath, let me answer you this way. I'm concerned that Blue Cross/Blue Shield will not be able to serve their constituency, the people in the State of New Hampshire, with health insurance unless this amendment prevails and they've been



doing this for some years. It also blocks them from owning any life insurance companies. This will make it a law rather than have it overseen by the commissioner of insurance. It will be a law if this passes that they cannot own any more than 10% of any life insurance company. But if you don't pass the bill with the amendment, they aren't going to be able to continue their combined services division.

SENATOR HEATH: Isn't this 10% more than the commissioner of insurance allowed in the past?

SENATOR FREESE: I can't answer that. My impression is that that is what is in place right now.

#### Floor Amendment to SB 54

Amend the bill by replacing all after the enacting clause with the following:

1 Health Service Corporations; Investments. Amend RSA 420-A:8 to read as follows:

420-A:8 Investments. No such corporation shall invest its funds otherwise than as provided in RSA 411-A relating to the investments and holding of real estate by domestic life insurance companies; provided that not exceeding 10 percent of its total admitted assets may be invested in such investments as are prudent for such a corporation to make, and provided further that, notwithstanding RSA 411-A:12, no such corporation may acquire and hold directly or indirectly through its subsidiaries or affiliates more than 10 percent of the outstanding voting stock of any life insurance company formed under the laws of this or another state or any corporation owning or holding the stock of such life insurance company.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.  
Senator Heath wished to be recorded as opposed.

#### ENROLLED BILLS

SB 31, Relative to the department of health and human services, and making an appropriation therefor.

Adopted

#### RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early

session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, March 12, 1987 at 10:00am.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

SB 43-FN, Relative to Regional Banking.

SB 90, Relative to amusement parks.

SB 178, Permitting the president of the New Hampshire Education Association to be eligible to participate in the New Hampshire retirement system.

SB 136, Relative to joint and several liability.

SB 58, Granting Cheshire Fair security guards the authority to detain persons on Cheshire Fair property.

SB 65, Repealing the authorization for a committee to investigate the confinement of children.

SB 176-FN-A, Changing financial disclosure requirements.

SB 108, Relative to immunity in criminal cases.

SB 115, Relative to marriage.

SB 54, Relative to the investment of non-profit health service corporations.

## RECONSIDERATION

Senator Freese moved reconsideration on SB 43, Relative to Regional Banking.

Motion lost.

Senator Blaisdell moved reconsideration on SB 136, Relative to joint and several liability.

Motion lost.

Senator Dupont moved adjournment.

Adopted

Adjourned.

*Thursday, March 12, 1987*

Senate met at 10:00 am.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord help us to settle down after a busy session yesterday! Open our eyes to the greatness and the majesty of your creation despite the weather and the storms of life which often overshadow our outlook upon ourselves and others. Bless us Lord!

Amen

Senator Disnard led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

## COMMITTEE REPORTS

SB 199, Relative to Branch Banking. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: SB 199 was a bill that we had before us a week or so ago and there was a considerable amount of controversy that resulted on the bill. There was a floor amendment, at that time, that added the words, with a principal place of business in New Hampshire, and after consultation with the banking commissioner, the committee has introduced that floor amendment as the committee amendment. It merely adds that "a principal place of business in the State of New Hampshire" be included.

SENATOR BLAISDELL: Senator Dupont, I didn't have much time to read this, but I have one question here I would like to ask. In the amendment references made to principal place of business, does this mean that a affiliated bank will not branch because the principal place of business of its parent bank is at another New England State? I think that's a very important question?

SENATOR DUPONT: It is the intent of this piece of legislation and our understanding of this piece of legislation, that an affiliated bank

under the Interstate Banking Law that we adopted yesterday, its principal place of business would be its affiliated holding company, which would be located in the State of New Hampshire.

SENATOR BLAISDELL: I just want to make sure that is on the record so everyone knows the intent of this bill. Thank you.

#### AMENDMENT TO SB 199-FN

Amend RSA 384-B:2, I as inserted by section 1 of the bill by replacing it with the following:

I. With the approval of the board, any bank with its principal office within the state of New Hampshire may establish and operate one or more branch offices in any town within the state. The board shall not grant any application for a branch office if the dollar volume of the total deposits, time, savings, and demand of the applicant bank is greater than 15 percent of the dollar volume of the total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the board on the basis of the most recent reports made by such institutions to their supervisory authorities available to the time of filing the application; nor if the applicant bank is an affiliate of a bank holding company which with all its affiliates then holds a dollar volume of total deposits, time, savings, and demand greater than 15 percent of the dollar volume of total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the board on the basis of the most recent reports made by such institutions to their supervisory authorities available at the time of filing of the application.

Amendment adopted. Ordered to Third Reading.

SB 172-FN, Regulating the taking of certain wildflowers and plants in New Hampshire. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This is the most important bill of the session, wildflowers. Every single one of you who went to grade school know that your fourth grade teacher and God would strike you dead if you picked a lady's slipper. The point is that that is not true, because there is no law to protect wildflowers. Those hepatica stealers among you, beware. Here is a bill that for the first time says that if someone from Massachusetts in a station wagon, as this editorial describes, comes to your back door with a trowel and digs up a tril-

lium or a lady's slipper and puts it into their car and takes it to Massachusetts and sells it for \$25, that it is now against the law in New Hampshire. This is a serious bill, in that everyone that I have talked to from the Speaker of the House on down, assumed that it was against the law to dig up or even pick some of our treasured native plants. This bill has the support of the Commissioner of Agriculture, of all the Environmental groups in the State and it had the support of my entire Committee. The bill makes it very clear that you can do anything you want with a native plant on your own land. You can pick it, you can trample it, you can bulldoze it, but if you disturb a native plant on someone else's land or on state land. I really am talking a lot about the sides of the road, as people drive along they really could up-root maidenhair ferns, anything that they wanted. I'm being facetious, but I'm also very serious. If we are going to stop the rape of New Hampshire of our wildflowers, this is the bill for you.

SENATOR BLAISDELL: I would like to rise in support of your committee report. I think that is an excellent report and I want you to know that you're right. I agree with you that I picked a lady in the slipper one night and I almost got killed.

SENATOR JOHNSON: I rise in support of this bill. I hope that the Senate passes it unanimously today. Senator McLane pointed out that the trespassers from Massachusetts in her example and so presumably this bill will now protect the wildflowers of the State from those trespassers from Massachusetts. Yesterday we tried to protect our New Hampshire Banks from the banks in Massachusetts, we're unsuccessful on that, but today we will at least, hopefully, protect the state's wildflowers.

#### AMENDMENT TO SB 172-FN

Amend RSA 217-A:3 as inserted by section 1 of the bill by inserting after paragraph XII the following new paragraph:

XIII. "Natural Areas Council" means an association of representatives from state agencies and private conservation groups who meet every other month to exchange information and discuss protection priorities for natural areas in New Hampshire. Member organizations shall include:

- (a) The division of forests and lands.
- (b) The division of parks and recreation.
- (c) The fish and game department.



- (d) The office of state planning.
- (e) The department of agriculture.
- (f) The water resources council.
- (g) The University of New Hampshire department of botany and plant pathology.
- (h) The Audubon Society of New Hampshire.
- (i) The New Hampshire Association of Conservation Commissions.
- (j) The Society for Protection of New Hampshire Forests.
- (k) The Nature Conservancy.

Amendment adopted. Ordered to Third Reading

SB 1-A, Establishing the New Hampshire land conservation investment program and making an appropriation therefor. Ought to Pass with Amendment Majority. Ought to Pass with Amendment Minority. Senator Hounsell for the Committee.

Senator Hounsell moved to recommit.

SENATOR HOUNSELL: I owe an apology to the Senate and to my committee. I misunderstood some of the crossover dates and I feel that the rush to meet today has got the committee split on this report. We have another week and I would ask that we recommit this, and would so move, so that we could take that week to work on a very valuable piece of legislation.

Adopted.

SB 201-FN, Relative to boat speeds on public waters and making an appropriation therefor. Split Vote, Majority Ought to Pass with Amendment/Minority Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: The lakes of New Hampshire are perhaps our finest resource and in the growth that has happened in New Hampshire in the last 20 to 30 years. Some people testified at the hearing, in the last 3 or 4 years, the number of motor boats has increased to 65 thousand. Of those boats, there are only a thousand that are capable of going over 40 mph. This bill is aimed at those 1,000 boats that, in the opinion of many, are taking up proportionately more than their share of the lake.

We had a very long hearing on this bill. It was put in as a result of a report done by the associations of all the lakes, Winnepesaukee, Winnisquam, Squam, Sunapee and Newfound Lake and as the result

of a study by many many people. I think I want to sort of frame the argument today in terms of numbers of people. There is a court report that was put out that says that a swimmer in the water takes up 10 square feet of space. A motor boat traveling at 45 mph takes up 1,000 times that swimmer's space. I want to frame the debate today in terms of the opposition, which is the marine dealers and some of those motor boat owners of those thousand that can go over 40 mph, against the people that love our lakes and love the tranquility, the peace and the safety of those lakes. I will try to be brief, but I want to point out the important points on the very long hearing that we had. First, we had a Doctor from Laconia who said, "If you have ever seen a child's foot cut off by a motor boat, you would know that we had to do something about the safety hazard of these lakes." Secondly, we had testimony by camp owners. One of the finest, cleanest industries we have in New Hampshire are summer camps; camps who no longer let their kids swim across the lake to earn some sort of a great badge, because they don't dare have swimmers in the water with the speeding boats and their high bows; camps that worry when they send kids out to learn how to sail, out in the waters to canoe, because of boats buzzing by with young drivers. We also heard from people who care about tranquility. We heard from a man who moved from Governors Island, because next door to him was a jet ski with a kid that drove it 8 hours a day. Then he said, "after a day of that," he thought about sneaking over in the night and taking the spark plug out of the jet ski. In the morning, at 4:00 o'clock in the morning, this high droaned buzz would invade his sleeping life. It turns out that if you have a cigarette boat that goes 100 mph, the only time you can drive it is early in the morning when the lakes are calm. That happens to be the same time in the morning that the camps around our lake do their rowing with shells, because the only time you can do a shell is early in the morning when the lakes are calm. I think that what we see here is a small minority, and I would like to speak directly to Gregg Smith, who has been a very potent adversary because of our respect that we all have of him. But look at what he is doing it for, he represents one man on one lake who likes to drive his motor boat faster than 40 mph. There has been little, if any, objection to the night time restriction of 20 mph. The bill makes very clear that there will be places on Lake Winnepesaukee that will be posted for speeds faster than 40 mph. But what this bill does, it finally says representing the lakes association, fisherman, young swimmers, those who love canoes and sailboats, that the minority of boats that want to drive over 40 mph can do so somewhere else, but on the precious heritage of New Hampshire. Thank you.

SENATOR ST. JEAN: Senator McLane, could you give me a sense of how fast the boat needs to go to tow a water skier?

SENATOR MCLANE: My best example is, if you have a 300 pound man and he was water skiing barefoot with no skies, he would need to go 45 mph. But we have no 300 pound men that came into this hearing. Two water skiers can be drawn at under 40 mph. The water skiing races, which are very clearly prepared for in this bill, and Bob Danos said that already in order to have a water skiing race, you have to have permission, this bill would allow that. But they go less than 40 mph when they are running somebody through a slalom. It is against the law to draw three people behind a motor boat and thats the only time that you need to go over 40 mph.

SENATOR JOHNSON: Senator McLane, you mentioned that the swimmers and the fishermen and the camp owners and the tranquility there that would be disturbed by these boats and particularly during the 4 a.m. period. Wouldn't that be the time that these high powered, high speed boats would be the greatest threat to the Loons, which you didn't mention in your testimony?

SENATOR MCLANE: I was careful not to mention Loons, because I'm taken enough grief on wildflowers without knowing that I'm a birder too. I do think that there is a threat not only to life and limb, but a threat to our environment, mostly from the wake. The Loons are very long in the front with very fat legs and they can literally not take off on land, that's why they don't nest on the ocean, they only nest on lakes. They have to be near enough to lakes so they literally fall out of their nest and get into the water or they can't fly or walk. It is very important for Loon nests to be right near the water. When you have a big wake coming from a high speed boat and washes over, you lose the Loons and the eggs. It is a protection to the Loons.

SENATOR FREESE: I rise to take the position of the minority of the split report on this subject matter. My district #4 represents about half the shoreline of Lake Winnepesaukee. It is the largest fresh water lake in New England.

At the testimony hearing that we had for SB 201-FN, as near as I could determine, about 50% of those testifying were for the bill and about 50% were against the bill. It was very obvious to me that the agency expected to enforce this speed limit is not equipped with personnel, training or equipment to do the job. Another instance, the radar that would have to be used to control these speeders is not

workable on water. There is no radar except the navigational radar used on the oceans that would do the job. That is very, very expensive and almost prohibited to supply that many units on Lake Winnepesaukee or any other lakes in the state.

I was a member of a power boat study committee during 1986, in which we studied the safety of the lakes and, naturally the speed of boats was one of the major topics of discussion. At that time, the Director of Safety, Bob Danos, said to us, that it would be impossible for them to enforce any speed limit on the lakes of New Hampshire because of personnel, training and equipment. The testimony that Senator McLane has alluded to this morning about speed, really, is not relevant to the problems that we face on the larger lakes in the State of New Hampshire. We need more personnel, we need more equipment and we need more training for the people that are out there to enforce the laws that we have on the books. At the present time, the Department has the authority to hold hearings and to bring speed limits into the lake areas that they think might be needed.

I would like to refer to testimony given by Gregg Smith, if I may take just a few moments to do that. I'm going to read an excerpt from his testimony, "I've had ten years of law enforcement and looked at this bill in terms of enforcement problems. It is intended to work with what I think is an unworkable, cumbersome and it is a misdirected effort from what I hear of the expressions and the problems to deal with those problems." I don't think that there can be any doubt having heard the testimony and having looked at the published accounts of the testimony over the last 2 or 3 years, if there is a concern about the level of enforcement for purposes of safety on New Hampshire Lakes. It occurs to me that the concern probably is one shared by everyone in this room. If opponents for the bill offer a reversal of the current situation and as an imposition on the division of safety services of significant new administrative responsibilities, and yet it is uncontested that they don't have the resources to deal with responsibilities that they have at the present time. The argument that we hear, that a speed limit would be self enforceable and we needn't worry about the additional burden that it might take to enforce it. First of all, I don't think there is any doubt that it is very difficult, if not impossible, to adequately regulate speed with the same types of devices that are used on highways, if you want to regulate the waters of this state. What this bill would do is impose an additional regulatory responsibilities on safety services. It seems to me that it takes a significant degree away from the lakes and back

to their offices, because it reverses the current situation by establishing a speed limit everywhere, requiring the agency to then adopt exceptions on a case to case basis.

This bill also involves the Governor and Council. It's really cumbersome and a very poorly written bill with regard to this aspect. It produces hearings in which great numbers of people come to express their viewpoints on both sides. It burdens the Governor and Council process beyond their ability to deal with those kinds of issues. In terms of the issues, which are principally technical, into issues that are predominantly political. We all know the problems the Governor and Council has had with docks and moorings. They haven't been able to deal with that. I don't expect that they should have to take on speed on our lakes. I really think that the testimony provided at the hearing was adequate to send this bill either to interim study or inexpedient to legislate. If those who support it would like to have it go to interim study, I have no problem with that and I would like to make a motion in that regard, when the time comes.

SENATOR MCLANE: Senator Freese, don't you think that it is important to point out that Gregg Smith was doing his job as the paid lobbyist for one single boating enthusiast who lives on Lake Winnepesaukee and that his statements about the enforcement went directly against the statements of Bob Danos who would be the person who was going to enforce the bill?

SENATOR FREESE: Let me answer you this way, Senator McLane. I don't think it makes any difference who he represented, I think he spoke for many of us who understand what that forced speed limit will do to the present enforcement personnel at the lake. They just can't handle it.

SENATOR MCLANE: Don't you think it is important to point out that Bob Danos is out there, which is the safety services, has made over 6,000 stops in the last year and that they do not plan to use radar, but plan to use speedometers on their boats to follow a boat and see if it is going over 40 mph?

SENATOR FREESE: Are you aware that none of those boats that they have at the present time will go 40 mph? How are they going to enforce it?

SENATOR MCLANE: I think that they could go fast enough to judge the speed of a boat that is going over that. The point being that there will be very few boats going over that speed and it will be readily obvious of the ones that are going over that speed.



SENATOR FREESE: The testimony at the hearing would indicate to me, as I understood it, that the radar would work and the equipment and the safety service the marine patrol has is not fast enough to pursue. It may be that they are going to take the time to get some new equipment. I'm one that fought hard for more money from the budget so that they can bring in that enforcement. But I didn't know, at that time, that they can't enforce the laws that we have on the boats, we shouldn't give them more to do.

SENATOR MCLANE: My last question is about the report that you spoke of. The Study Committee on Power Boats, that had on it Joan Laplante, Jack Erwin and Jeff Thurston from the marine dealers and two people from the United States Power Squadron. Also, the other report, there are two reports and I think it is unfair to mention one report without the other, which is the report of the Court Committee and Office of State Planning that dealt with the Governor, which does clearly call for a speed limit of 40 mph on New Hampshire Lakes. Don't you think it would be fairer to talk to both reports?

SENATOR FREESE: I was aware that you had tossed the previous report.

SENATOR DUPONT: Senator McLane, as you know I sat in on that hearing. I found it very, very interesting having grown up on a lake. I also indicated to a friend of yours who used to be a tournament water ski driver, that he has talked about people who had testified against the bill. I have concerns because the 55 mph limit on roads is unenforceable, and unfortunately, what you have here today is a bill that is unenforceable. But my first question would be the bill references governing maximum horsepower and gives the director authority to do that, what is he going to do? Is he going to stake three outboard motors on top each other and say that is more than you can have on one boat?

SENATOR MCLANE: There is no limit on horsepower now. There are a thousand boats, I say, that are over 300 horsepower and some of those can't go over 40 mph, the boats are too big. My impression is, at the present time the director can license these 65 thousands boats, but he cannot limit horsepower in any way. I think that this is the clearest part of the bill, it is that the minute you get a boat that's a racing boat, that someone is not going to race with but just wants to drive around the lake and it goes 100 mph, there is no sense in carting it up to Lake Winnepesaukee and putting it in the lake if you

know that the speed limit is 40 mph. So, what they will do is take those cigarette boats down to the ocean that they are built for and if they want to go 100 mph, they can go 100 mph on the ocean.

SENATOR BOND: Senator McLane, the amendment on page 16 appears to me that it indicated it would be possible for safety services to establish a higher speed if it is zoned in the middle of a lake the size of Lake Winnepesaukee?

SENATOR MCLANE: Very true. The point is, is that it puts the burden on the community to have the public hearings to go through the rule making process to have places on the broads of Winnepesaukee where you can go any speed you want. But you won't be able to go that speed near islands, coves, and near swimmers.

SENATOR BLAISDELL: I did live on Spofford Lake and I no longer live there, so I do know the problems of what Senator McLane is talking about. But I also sat with Senator Freese on this power boat study committee and certainly great input was put into it. We have a very serious problem on the lakes, not only on Winnepesaukee, but on all the lakes in the State of New Hampshire. I sat there when I lived on Spofford Lake and I watched what happened to those canoeists that you talked about. I had a Doctor and his family and a couple children that canoed right in front of me and got swamped by a young kid about 17 years old that just put that boat under. We did get the children out and the Doctor was very upset. There should be some times when these people can use that great resource that we have. There's a serious problem. We got them with jet skis, we tried to do that with some amendments that we've done this in the past couple of sessions. Senator Freese and I worked on some other bills. Probably Senator, I will support your interim study if you make that motion, because I sincerely believe that there has to be a study. We have to have more enforcement people on the lake.

We had one person that they finally did get. They suspended his license for a year who 1, 2, 3 and 4 o'clock in the morning without fail with a big boat that was going 70 to 80 mph out there, with no mufflers on it at all. We have addressed the decibel noise. They didn't even have the material in their boats for the inspectors to be able to check the decibel noise of boats. There was a problem with the decibel law and we tried to straighten it out this time. The inspectors couldn't even do anything about it.

There are some serious problems out there and I think that we should be listening to it. It's not a frivolous thing; it is a very impor-

tant thing because one of the greatest resources we have in this great state of ours are our lakes and our ponds and our rivers. I think that we should try to address it. I hope it's studied. I hope we give the Department of Safety, Danos and, in time, Mr. McCabe, some beefed up support so that they can go out and really regulate the laws that we pass here. Right now they don't have anybody to do it. We have one inspector on our lake, Ken Spoffit, that did about 122, but you could never get him. We did finally put in some beepers so that we could contact the place in Laconia and they could then call back and say there was a problem.

On that lake last summer, I bet you we didn't have an inspector there three times. Three times, especially on the weekends and they went crazy, I'll tell you. It's a wonder that somebody didn't get killed. We had some accidents, but there was no one there to cover. I couldn't blame the inspector because he was trying to cover all of the emergencies that came up on that particular weekend.

I ask you to think about this and don't just kill it, please don't make it inexpedient to legislate. If it has to be interim study, let us talk about it and keep it going.

SENATOR MCLANE: Senator Blaisdell, did you know that the effective date for this bill is not until January 1, 1988 and so that there is going to be a long time for education and for working out with Bob Danos, who says he can enforce it?

SENATOR BLAISDELL: Yes, I did know the date.

SENATOR MCLANE: Secondly, I wonder if on Spofford Lake, you had a boat that was consistently going over 40 mph and was there on the lake, wouldn't it be possible for you to then call the inspector and say, "we have someone here who is violating the law," and then there could be some enforcement?

SENATOR BLAISDELL: Well we tried that Senator, but he was not available. We tried calling the state police. The state police have no authority over this whatsoever. This man was out there night after night 1:30, 2:30 and 3:00 o'clock in the morning just raising holy hell around that whole lake and its eight miles around. It kept everybody up night after night, so there was some serious problems. But they couldn't get him. Once he got into his dock, they couldn't do anything about it.

SENATOR MCLANE: The last question would be, isn't that because it wasn't against the law what he was doing and that I would think you would be the first one to vote this bill so you get a good night sleep?

SENATOR BLAISDELL: I don't live there any more, Senator, so it is no longer a conflict of interest if I stand on the floor of the Senate and speak to this. I sold my place for that reason.

SENATOR FREESE: Senator Blaisdell, wouldn't you agree that speed is not the most crucial problem we have with the accident prone problems on lakes, that it may be other things that we have neglected as legislators in helping the marine patrol and safety services build their force and get on top of the problems that presently exist?

SENATOR BLAISDELL: I don't think speed is the problem Senator, I think enforcement is the problem. I think that if we have some people out there in the blue uniforms to show people that they are there to protect the public on their lakes and big lakes. I think that should solve your problem.

SENATOR DISNARD: Senator Blaisdell, would you believe me that I'm confused? First I heard you testify about this family in the canoe, speed almost caused the lose of death. Now you are saying speed isn't a problem?

SENATOR BLAISDELL: It wasn't exactly the speed, there were going around 40 mph and he swamped them, that's what happened. They were too close for one thing. This is an enforcement issue. They were too close to the canoe, they should have been out much further.

SENATOR DISNARD: Would you believe as a new freshman Senator sitting here, I've heard you say many times, once a bill gets to my committee I can add more people. I would assume that if this is passed you would solve that problem immediately?

SENATOR BLAISDELL: I hope you haven't heard me say that too much Senator, I've got enough problems right now.

SENATOR HOUNSELL: Senator Blaisdell, if this bill passes it will go to Finance Committee, so couldn't the question you have regarding the lack of enforcement be addressed in your committee?

SENATOR BLAISDELL: Yes, it could, but I want to state to this Senate right now, Senator Blaisdell is only one member of Senate

Finance, there are seven others who have different views and I would hope that everybody will take that into consideration. Certainly we can consider it, but it would be up to the other seven members of the committee to make that decision.

SENATOR PODLES: Senator McLane, I received a lot of complaints from my constituency on speeding boats on the Piscataqua River and that is between Pinardsville and Goffstown. Could you tell me if this bill is going to cover that river?

SENATOR MCLANE: I think it is going to help a lot. It will because it sets a speed limit for boats in New Hampshire. Two of the young men that came to oppose the bill, lived on Piscataqua River and they have been racing boats to see if they can get to 100 mph on the river. I agree with you; I think it is a real problem and I believe that this would go a long way to stop that sort of thing.

SENATOR HOUNSELL: Senator McLane, on this question of enforcement, which has been a concern of mine, do you think that state police have a little bit of difficulty enforcing the speed limit on Interstate 93?

SENATOR MCLANE: Yes, I do. I think that the problem is that it has become what would be almost socially acceptable to go 65 mph on the highways, but the minute you get somebody going 90 mph, then you have the force of the law to say, stop. I think the same would be true of boats. You are going to have a boat, that if they are not out of line nobody is going to complain. But the minute they are out of line, then they are breaking the law.

SENATOR DUPONT: I rise in opposition to the motion of ought to pass on this bill. I will be very brief, but I have to relate a little experience I had a year ago. With all the controversy surrounding Lake Winnepesaukee I took it upon myself to go up there and spend a day with safety services out on the lake. I got up there and arrived at a building that was falling down. A department that had nine boats, but only two of them were running that day, one of them was inside which had split in half. It just was really embarrassing to me to say that this was a state facility and a state department. I don't have any problem with the speed limit, as I indicated before, I don't think that the 40 mph limit is reasonable, but I do feel that we ought to have a speed limit. Before we go ahead and pass that speed limit, I think that we ought to be realistic and assess the ability of the department that's going to enforce this, assess their ability of whether



or not they can in fact do the job. We ought to put our money where our mouth is or our speed limit is and give them the tools to do the job. I find that the bill fully written, it refers to a number of different procedures for establishing the speed limit that will only be solely decided in the political ground, not in the real needs. It asks for the governing of the maximum horsepower, which I feel is irrelevant to the problem. Horsepower doesn't determine speed and it really has no reference other than the fact that the boat may be capable of doing over the speed limit. It doesn't mean that it is going to be used and I don't even think that they have the capability or anybody has the capability of looking at an engine and say that it is 400 or 300 horsepower unless someone tells them. Everybody could say my boat's only 200 horsepower and they wouldn't have to comply. I think this bill really belongs in interim study or some place where we can spend some time on it and get it workable. As I indicated before, I grew up on a lake and I think I got some experience with boats that probably help make my judgment on this bill and help me realize that the bill is not workable and urge that we not pass this out of the Senate today.

SENATOR HOUNSELL: First of all, I want to begin by thanking Senator Freese for taking a lot of time in conducting and reviewing the hearing, scrutinizing the testimony, raising key questions and pointing some deficiencies out to us. I have listened and I have been trying to weigh the need to protect the safety features of our lake as it grows, to understand that it's not just something that we can solve with any piece of legislation not being a bad piece of legislation. I do think that what we have here is an important move in the right direction, that I think in this instance is going to proceed through process that can perhaps and hopefully remove some of the deficiencies. So I am standing in support of the majority of the committee which is ought to pass.

#### AMENDMENT TO SB 201-FN-A

Amend RSA 270:12, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The provisions of RSA 270:12, II and III shall not apply to law enforcement boats, seaplanes while in the process of taking off or landing, races or water events that have been approved by the department of safety, division of safety services, or to other special speed zones that may be established, in accordance with rules

adopted under RSA 541-A after public notice and hearing, by the division of safety services and with the approval of governor and council.

Senator Freese moved substitution of Interim Study.

Senator McLane requested roll call.

Senator Hounsell seconded.

Those in favor: Senators Freese, Dupont, Delahunty and Preston.

Those opposed: Senators Bond, Hounsell, Heath, Hough, Chandler, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, McLane, Poldes, Johnson, Stephen, St. Jean, Torr and Krasker.

4 Yeas

18 Nays

Motion lost

Question: Adopt committee amendment

Adopted.

Senator Freese offered floor amendment.

SENATOR FREESE: In view of what I believe I've heard in the testimony and in view of what I see on Lake Winnepesaukee, having a boat on the lake, in fact, being there every weekend and knowing the conditions of the traffic on the lake during the week when it's very placid, I would like to offer this floor amendment which reads, notwithstanding the provisions of this section, Lake Winnepesaukee shall be exempt from the maximum boat speed imposed by this section, unless the Director of Safety Services determines after a hearing that the control and speed of boats in certain areas of the lake is required for the safety of the public.

SENATOR CHANDLER: Senator Freese, you said you had boats on Winnepesaukee?

SENATOR FREESE: Yes.

SENATOR CHANDLER: How do you spell Winnepesaukee?

SENATOR FREESE: Well, I think it is spelled wrong and I didn't take this in, it was written by dictation and apparently that was a question and it wasn't looked up. But it is spelled wrong?

SENATOR CHANDLER: Do you go out speeding around at night waking people up?

SENATOR FREESE: Neither one of my boats will go 40 mph.

SENATOR HOUNSELL: I rise in support of the amendment that is before you. I think that this is a good place to start. I think that Senator Freese is offering a responsible amendment.

SENATOR MCLANE: I would probably say that if anyone can spell Winnepesaukee, they should vote for this amendment. Now try it all of you, I practiced it during the hearing. I would be very happy to send this bill down to Finance with this amendment on it. I think that none of us have thought about it before this very minute. I don't now whether I'm for it or against it. But I think Senator Freese has brought up some important points. He has done a good job and I would be very happy to send this amendment on the bill down to Finance. I would feel a little bit like Loggie Lamontagne, I'm very happy with that 18 to 4 vote. If we decide that we ought to put Winnepesaukee back in again, and you all learn how to spell it in the meantime, when it comes back on the floor, we'll see. I'd really like to hear from the people on this. I do know that the Winnepesaukee Lakes Association is very much for that, but I would be happy to send it on down to Finance with this amendment on it.

SENATOR HOUNSELL: Senator McLane, would you believe that after the conference with Senator Heath, that it is my understanding that there could be as many as five legitimate spellings of Winnepesaukee?

SENATOR MCLANE: The Indian expert.

#### FLOOR AMENDMENT TO SB 201-FN-A

Amend RSA 270:12 as inserted by section 1 of the bill by inserting after paragraph VI the following paragraph:

VII. Notwithstanding the provisions of this section, Lake Winnepesaukee shall be exempted from the maximum boat speed imposed by this section, unless the director of safety services determines, after a hearing, that the control of the speed of boats in certain areas of the lake is required for the safety of the public.

Floor Amendment adopted. Referred to Finance under Rule 24

SB 211-FN, Relative to a license fee for clean-up of gasoline and oil underground storage tank leaks and spills. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: If the Senate would pay special attention to this bill, I think that you will see a good step in the right direction towards correcting a problem that we have in this state with our drinking water, oil spills, clean ups, underground storage tank and everything that ties into that. The bill that you have before you, I would ask that you would look on page 16 of your calendar and look at the amendment. There are substantial changes to the bill. I want to go over those with you. The fee of 2 1/2 cents a gallon be placed with a cap on it, that would be available for clean up of oil spills in the lake. This bill before you as amended doesn't do what it is set out to do in the way that it sets out to do it, it does it in a better way. This is what it does. It maintains the 2 1/2 cents fee, it does not increase the fee. But what it does do is, it makes it equitable. The fund currently has within its account \$356,815.55. There are a hundred businesses who qualify and are required to pay under current law. Of those hundred, five of them pay over 90% of the fund. Those five are located in Portsmouth Harbor and they are Sprag which pays \$72,400, Mobil which pays \$53,600, Public Service which pays \$78,400, Fuel Storage which pays \$57,600 and Northeast Petroleum which pays \$63,000 and the other 95% have to pay \$31,700. The committee's feeling and the feeling of the people who came in both support and opposition to this bill, that this is an inequitable means of raising the revenue for this purpose. The bill on page 17 on line II defines a new term, which is wholesale terminal facility. It defines in this manner: the facility and operator, distributor, dealer or broker who transfers or transports or causes to be transferred or transported oil into the state, shall be licensed under this chapter and the annual fee remains at the 2 1/2 cents. It's the feeling of the committee that it has been an inequitable license fee, the people who should be paying, in particular people who bring oil in from Chelsea, Massachusetts from the terminals down there, have not been paying that fee. It also re-establishes the committee to examine the financial mechanisms for underground storage tank replacements revolving loan fund and to investigate the equitability of the current license fee under RSA 146. That is new language, to investigate the equitability of the current license fee under 146. That, we believe, is necessary because we want to make sure as we make changes in the collection of this fee, that it does, indeed, do what we intend and that is to be equitable.

Having spoken to the amendment, I want to now address the need for this bill in this version and this form. We are under, in this state, a rule from Water Supply Pollution Control Department of Environment that all oil tanks over 1,000 gallons in capacities, that are underground, shall be replaced within four year periods. The economic hardship that this can place upon small businesses, is such that it could put many people out of business. Indeed, many of the smaller mom and pop stores who offer gasoline, could be indeed put out of business by the replacing of these tanks. This bill SB 211 establishes that a screen committee can disburse grants or loans if, after they have determined, on page 17 of the amendment, the Division of Water Supply Pollution Control may make grant or loan or both for the purpose stated in this paragraph, is taken into account that the net worth of the owner, the unavailability, inadequacy or prohibitive price of liability insurance and the hardship that would occur if the owner replacing the leaking or potentially leaking gasoline or oil underground storage tank. We feel that we have to do this. It is one thing to have rules and laws to change you and require that oil tanks be replaced, but it is another thing to do that and at the same time, put people out of business. I think we worked hard on this; we did have both sides in to talk about both their problems with it and everyone is in agreement. I urge your support. I know that there probably should be many questions on this. My testimony has jumped around and I will be very happy to answer any questions to clarify any point.

SENATOR DUPONT: Senator Hounsell, just for clarification, what this basically does then is, for example, let's say I'm the hospital in Rochester which may buy oil off of a company that is located in Massachusetts. The hospital wouldn't be responsible for payment of that tax if they had a storage facility that was over 44,000, it would still be the terminal for Massachusetts. It's the point of origination rather than, in fact, what is going into the state?

SENATOR HOUNSELL: That's right. The current law that we have says, the fee is placed at the point of entry. It states in the law that oil that is coming across the map, mainly from the Chelsea terminal, will pay it.

SENATOR BOND: Senator Hounsell, was consideration given to, in the language of this, the fact that we have a 45 mile, 36 inch pipe line that runs from the State of Maine to the State of Vermont, through Coos County? As I read the language transporting the oil into the state, are they then subject to the same?



SENATOR HOUNSELL: That specifically was not addressed. But under the typing up of the language, the licensee would be assessed in Portland, Maine.

SENATOR DISNARD: Senator Hounsell, you referred to page 17, roman numeral II. If I'm an oil dealer and I pick up at the Chelsea terminal in bringing oil into the town of Claremont, am I going to be charged 2 1/2 cents for every gallon I bring in?

SENATOR HOUNSELL: No, the terminal will be.

SENATOR DISNARD: Is this being done now?

SENATOR HOUNSELL: Not in that case it isn't.

SENATOR DISNARD: Every one of the citizens that burns oil in the State of New Hampshire will now have added 2 1/2 cents per gallon to their bill?

SENATOR HOUNSELL: No, some of them will and some of them have been.

SENATOR DISNARD: Would you believe that I am a little nervous of the citizens that I represent in district 8, and then especially pay another 2 1/2 cents per gallon to help the mom and pop stores, then I disagree with that?

SENATOR HOUNSELL: I would believe that if you say that, but I would like to also, if I could, in my answer to your question, say that, we have on the books a law that says that this will be done and this fee would be originated. I fail to see the merits of tax in one part of the State and also respect the potential effects on other facts except to know it. That's the equitability in question. I don't think it is fair to tax one group and not the other.

SENATOR DISNARD: Would you believe I disagree in that concern about the consumer now being paid? Can you explain, to protect the owner who distributes fuel from a store, then the home owner now has to subsidize those people with an additional 2 1/2 cents per gallon?

SENATOR HOUNSELL: I would believe that, but then again I would state that there is, I would hope in your mind, some problems with unfair burden of taxes on other citizens of the state.

SENATOR JOHNSON: Senator Hounsell, you may know that in Northwood in recent months, it was ascertained that the store with

the gas pumps there had leaking underground fuel tanks and it was further ascertained that that was the source of contamination of some 11 to 13 wells? How would this bill affect that situation? What relief would be available, first, to the owner of the oil tanks and secondly, to the home owners with their contaminated wells?

SENATOR HOUNSELL: This would make it possible, I believe, for the owner of the tank to have access to funds. There is not enough money in it and it's not the thrust of this legislation to clean up a problem that has now gone into areas in the fatality for private wells. However, having said that, that's not the thrust of this one. But there is a House bill that I think together with this one, makes it quite possible that we can continue on the step to address this environmental problem.

SENATOR ST. JEAN: Senator Hounsell, when this bill came before the committee, there was a question about a thousand barrels or more in the question of terminal with regards at the terminal facilities. Does this amendment address those problems year-round, in equitable taxes of various facilities?

SENATOR HOUNSELL: Yes, the thousand barrel capacity, I believe, had a big reason on why five firms are paying 90% of the fund that's currently in there, and the other 95 firms are only paying around 10%, because of the thousand barrel capacity. It does correct that.

SENATOR CHANDLER: Senator Hounsell, isn't the 2 1/2 cents per gallon that you have been mentioning, doesn't that refer to a one time payment by the owner of the tank based on the capacity of the tank, so it would not relate to a 2 1/2 increase on the customer because the owner only pays it once a year?

SENATOR HOUNSELL: I think that you'll find that it's all tied to another provision which is for the cap. I forgot to mention the cap and I apologize. If you look on page 16 and then 17, you'll see that currently we have a \$1,500,000 cap, the cap now has increased to \$2,750,000. Also note that we only have \$350,000 in it currently, so the cap has never kicked in. It shall be discontinued at the cap, in other words, we are not trying to take too much, but enough to address the immediate need. I think it is equitable and I think to answer your question, is that it is a fair approach. But I also believe that it would be passed on to the consumer, as any license tax would

be. Any time that I have said tax, I want to state that it is not a tax per se, it is the license fee. If it was a tax it would have to go the highway fund.

SENATOR FREESE: I was present during the hearing process of this bill. We did have a very diverse group of people in regard to the problem that this bill, at that time, offered. Everyone there supported the concept, but it was a real rough hearing with regard to all the differences of how to get there. I would like to commend Senator Hounsell for being able to pull that group together, having a meeting with them, buy and sell, the rest of our committee, including myself, was obligated with other commitments, to come up with this bill. I think you have done a good job. I think it is an important bill and I hope the Senate will support it.

SENATOR BOND: I supported this bill until it suddenly occurred to me, that the largest importer of oil in New Hampshire, is also, the largest exporter of oil in New Hampshire. It's got, literally, hundreds of thousands of barrels of oil passed through a 45 mile pipeline and through to pumping stations in the towns of Shelburne, Gorham, Randolph, Jefferson and Lancaster. The Borderline Pipeline Company was established in 1940 to provide an ice free source of oil to Montreal. The Borderline Pipeline Company is a Canadian owned firm, which receives its oil in Portland Harbor and pumps every 25 miles with a pumping station from Portland to Montreal. There are three pipelines, one is 36 inches and that is presently in use for oil; there is a 24 inch line and there's talk of conversion of that to a natural gas pipeline from Canada to Portland and there is a twelve inch line which is the original line, it has been deactivated. They have an exemplary safety record. I know of only one leak which happened to occur in Jefferson about 6 months ago and their techniques for controlling it were outstanding.

The question that I have and the concern that I have is, what is the impact of this bill on this piece of business which is really an international transfer line, which passes through the state of New Hampshire. I have a feeling that I should ask that you table this until I can get some answers as to the intent of the bill. However, as long as this is going to Finance, which I assume it is, Mr. President, then I would hope that the Finance Committee would look seriously at an amendment that deals with the Borderline Pipeline Company. Otherwise we could effectively cause it to be put out of business. The Pipeline is the largest taxpayer in the towns of Shelburne, Randolph and Jefferson by a large factor. I would ask that the Finance Committee give serious consideration to an amendment.

SENATOR DISNARD: Senator Bond, would you believe that I agree with you and am also concerned because of the brackets on what this eliminates. Today transport vehicles going through our state, as well as other states, will also have to pay this tax, because they eliminated the storage facility. Now it could be any vehicle on gasoline or oil passing through the state.

SENATOR BOND: I believe that.

SENATOR HOUNSELL: Thank you, Senator Bond and Senator Disnard, for those concerns. I do apologize because I didn't think of that. It wasn't because it isn't important, I just didn't think of it. But it is important and I would ask, because this is a crucial piece of legislation, I would offer to Senator Blaisdell, because I know that I have put a lot of burden on you and your committee, sir, that I would be able and more than willing to work out some sort of language that can address those concerns. I don't know how to do it today, but I do know that this is an important day for consideration of legislation before it proceeds and I would be happy to lend my services for doing it, if we can move it along today. I would hope that there will be no motion to table.

#### AMENDMENT TO SB 211-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to a license fee for clean-up of gasoline and  
oil underground storage tank leaks and spills and  
creating a study committee.

Amend RSA 146-A:11-a, II, III, and IV as inserted by section 1 of the bill by replacing them with the following:

II. Moneys in the fund not currently needed to meet the obligations of the division of water supply and pollution control under this chapter shall be deposited with the state treasurer to the credit of said fund and may be invested as provided by law. Interest received on such investment shall also be credited to the fund. If the fund's balance becomes greater than [\$1,500,000] \$2,750,000, the license fees established in RSA 146-A:11-b, II, shall be discontinued and only re-established when the fund's balance is 20 percent below the [\$1,500,000] \$2,750,000 balance.

III. Revenue from the fund shall be disbursed as grants or loans or both to wholesale, retail, and consumer account owners of gasoline and oil underground storage tanks for the following purposes:

(a) Clean-up of pollution caused by leaking gasoline and oil underground storage tanks; or

(b) Removal of leaking or potentially leaking gasoline or oil underground storage tanks and the installation of new gasoline or oil underground storage tanks, excluding the cost of the tanks and any part of such tanks.

The division of water supply and pollution control shall make grants or loans or both for the purposes stated in this paragraph, taking into account the net worth of the owner, the unavailability, inadequacy, or prohibitive price of liability insurance, and the hardship that would occur if the owner replaced the leaking or potentially leaking gasoline or oil underground storage tanks. All decisions made by the director shall be in writing, including the reasons for such decision. The division of water supply and pollution control shall produce an application form for grants and loans under this section.

IV. Appeal from the division of water supply and pollution control's determination and any decision made pursuant to this section shall be made through the water supply and pollution control council pursuant to RSA 21-O:7, IV.

Amend section 2 of the bill by replacing it with the following:

2 License Fee; Importation of Oil into the State. Amend RSA 146-A:11-b, II to read as follows:

II. Any operator, distributor, dealer, [or] broker, or wholesale terminal facility [who has a storage facility capable of storing 1,000 or more barrels of oil and] who transfers or transports or causes to be transferred or transported oil into the state shall be licensed under this chapter. The annual fee for the license shall be determined on the basis of \$.025 per barrel of oil transferred into this state during the license period. The license fee shall be computed at the point of entry of the oil into this state. The fee shall be paid monthly by the licensee to the division of water supply and pollution control and then deposited by the division of water supply and pollution control into the oil pollution control fund. Imposition of the fee shall be based on records of the licensee and certified as accurate to the division of water supply and pollution control.

Amend the bill by replacing all after section 2 with the following:

3 New Paragraph; New Definition; Wholesale Terminal Facility. Amend RSA 146-A:2 by inserting after paragraph X the following new paragraph:



XI. "Wholesale terminal facility" means any facility of any kind and its related appurtenances that is primarily a wholesale distributor of oil products and that is used or capable of being used for pumping, handling, transferring, processing, refining or storing oil.

4 New Paragraphs; Rulemaking; Oil Pollution Control Fund Grants. Amend RSA 146-A:11-c by inserting after paragraph XI the following new paragraphs:

XII. Procedures for application for grants and loans under RSA 146-A:11-a, III.

XIII. Eligibility criteria for grants and loans under RSA 146-A:11-a, III.

XIV. Purposes for which grants and loans may be made under RSA 146-A:11-a, III.

5 Study Committee Established. An interim study committee is established to examine financing mechanisms for an underground storage tank replacement revolving loan fund, and to investigate the equitability of the current license fee under RSA 146-A. The committee shall consist of 8 members, as follows:

I. Two members of the house of representatives appointed by the speaker of the house; of these 2 members, one shall be a member of the committee on resources, recreation and development, and the other shall be a member of the environment and agriculture committee.

II. Two members of the senate, appointed by the senate president, both of whom shall be members of the development, recreation and environment committee.

III. The state treasurer or his designee.

IV. The executive director of the division of water supply and pollution control or his designee.

V. Two members representing the petroleum industry in the state to be appointed by the governor.

6 Purpose. The creation of this committee created under section 5 of this act represents the legislature's recognition of the need to minimize the economic burden placed on small businesses by new rules and the need to protect groundwater quality without causing undue financial hardship to small businesses.

7 Duties of Committee. The study committee shall investigate means of financing and administering an underground storage tank revolving loan fund for the purpose of tank replacement and compliance with rules, and the equitability of the current license fee under

RSA 146-A. The committee shall report its recommendations to the governor, the president of the senate, and the speaker of the house no later than December 1, 1987.

8 Compensation. Members of the study committee shall serve without compensation, except that members of the legislature shall receive mileage at the legislative rate.

9 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Referred to Finance under Rule 24.

SB 122, Relative to contributory fault and comparative fault. Inexpedient to Legislate. Senator Delahunt for the Committee.

SENATOR DELAHUNTY: The committee felt that similar legislation, SB 136, be joined to several liability insurance in a similar bill being considered in the House. It was sufficient to cover the intent of this bill and vote it inexpedient to legislate.

Adopted

SB 134-FN-A, To commission a study of an environmental risk insurance fund and making an appropriation therefor. Ought to Pass with Amendment. Senator Delahunt for the Committee.

SENATOR DELAHUNTY: Until two years ago, commercial general liability policies in the State of New Hampshire were required to have an endorsement to cover sudden and accidental pollution of discharge. Situations today are not the same and the coverage is not available. The purpose of this bill is to establish a committee to study and vote for feasibility and problems involved and established in the environmental risk insurance safety fund. The State of New Hampshire requires municipalities to operate and provide a facility for solid waste disposal. The communities are not allowed and should not be allowed to shirk their responsibility, therefor they have this problem. This is one reason why the committee feels it is most appropriate that the state assist them in solving their real problem. There are other activities that communities conduct, which due to a lesser degree, carry some potential pollution liability. Public Works garage, which use gasoline and oil solvents, and Waste Water Treatment Systems have a possibility of chemical discharge and spills or overuse of chemicals and road clearance operations. The committee would appreciate your support in voting it ought to pass.

## AMENDMENT TO SB 134-FN-A

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. There is hereby established an environmental risk insurance fund study commission, which shall consist of the following:

- (a) Two public members appointed by the governor;
- (b) Two senators appointed by the president of the senate;
- (c) Two members of the house of representatives appointed by the speaker of the house of representatives;
- (d) Two municipal officials appointed by the New Hampshire Municipal Association;
- (e) One member appointed by the Business and Industry Association of New Hampshire;
- (f) The commissioner of insurance or his designee;
- (g) The commissioner of revenue administration or his designee;
- (h) The state treasurer or his designee;
- (i) One member appointed by the Southern New Hampshire Commerce and Industry Association; and,
- (j) One attorney with a background in environmental law appointed by the New Hampshire Bar Association.

Amend the bill by replacing section 4 with the following:

4 Report Date. The commission shall file its report, along with any recommended legislation, with the senate president and speaker of the house no later than April 15, 1988.

Amend the bill by replacing section 5 with the following:

5 Appropriation. In addition to any other sums appropriated to the department of insurance, there is hereby appropriated the sum of \$30,000 for the fiscal year ending June 30, 1988, to the department of insurance for the use of the commission in collection and processing data, engaging such consultants as the commission deems necessary, and preparation of its report and recommendations. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment Adopted. Referred to Finance under Rule 24.

SB 174-FN, Eliminating the Social Security offset provision for service and disability retirement benefits for group I members under the New Hampshire retirement system. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: SB 174 is a bill that really has been studied by the retirement system, which Senator White and I have been a member of for quite a while, along with Margaret Ramsay from the House. It's a new subject and I think you ought to listen to it. I sponsored the legislation because I truly believe it's time for this legislature to deal with a real problem of the New Hampshire Retirement system. All of us here like to pride ourselves in the fact that New Hampshire's Retirement system is among the most securely funded system of the Nation and it is. While many states are struggling to keep their retirement programs from bankruptcy, our system has about 150% of the assets needed to fund the current liability.

However, I want to talk to you about another side of the measuring stick which also must be examined. That is how well does it provide the financial security to those that are dependent upon it in their sunset years. It is sad to say that I think the New Hampshire retirement system fails visibly for group I members. This includes our teachers and our state employees. I think this is the most important part of it and I'm going to leave it at this. If a teacher or state employee makes a career of our system and retires after 30 years, they retire at half pay. On the surface that sounds pretty reasonable, but the kicker is at age 65 their state pension is reduced through a Social Security offset. This year the Sunset Committee reviewed the New Hampshire Retirement system. As part of its review, the committee reported on how our system compares with other plans nationally. The report states that New Hampshire was one of the lowest state's in expected lifetime payments to retirees from the retirement system. This was true whether only retiree annuities were considered or if Social Security benefits were added in. The reason for this is the Social Security offset provision on our law and although most states in the recorded survey are also covered by Social Security, most do not have an offset provision and I emphasize that. That is unlike New Hampshire, the benefit received by the retiree from the retirement system is not reduced because he or she is also receiving Social Security benefits.

I'm not going to keep going on this, but just to let you know on page 12 the amendment is there and, of course, it is going to have to be sent to Finance anyways. I would like to keep the dialogue going. The bill as written would immediately remove the offset and this would certainly have been unbelievable. It would be too expensive and it couldn't happen. This amendment that is in the book provides that the offset be removed only from services rendered after July 1,

1987. For example, if the teacher has been working 20 years to date and will work ten years after July 1, only the latter 10 years will be affected. Thus 1/3 of the option will be eliminated. This is a bill that I realize is going to cause some controversy and I truly believe that we should have the debate on it and the cost in Finance, there is no fiscal note on it, as you note. I will be looking at that in Finance and I ask the Senate to send it down to the Finance Committee so at least to keep the dialogue going to get the fiscal impact and then report it to the Senate.

SENATOR DISNARD: Senator Blaisdell, would you believe that a member of group I now pays between 12% and 13%, including Social Security, and almost 5% pension plan on their own contributions, and they are being penalized?

SENATOR BLAISDELL: Absolutely, while we are on the subject, knowing that you are a retired superintendent, I want you to know that this bill doesn't affect you and will not affect you. It's after July 1. I want to be sure that that's known on the Senate floor.

SENATOR DISNARD: Would you further believe that when this bill takes effect, it will take 30 years before it can be complete and so it's spread over a number of years?

SENATOR BLAISDELL: Yes, you are absolutely correct Senator.

SENATOR WHITE: Senator Blaisdell, the problem I have is the people who are currently retired. They are the ones that were in the lower income, so that, their retirement is a lower level. I think the teachers of today are getting paid a higher living wage rate, the same with the state employees. I think that we have tried over the past few years to upgrade state employees' salaries and to upgrade the teachers' in our local communities. I'm distressed to see that this is only going to be a prospect bill rather than a retrospective bill. I wonder if you could address that?

SENATOR BLAISDELL: Well, I will address it Senator, you are absolutely right. I too have the same interest that you have and the other retirees. I've done that over the years. I just want to get it down into Finance so that I can look at it. I haven't had time, to tell you the truth and you know what that is, to be able to look back at how much it would cost each year. That's exactly what I'm going to try to do. I'm not so sure that this will pass the session and I'll be truthful about that. But I think that if I can get it down to Finance



and get a look at it and see how far back we can go and the cost, then certainly I can come back with a reasonable solution to the Senate floor.

SENATOR WHITE: Have you looked at changing the formula at all in regards to the payment? I think we were looking at a change of formula last time and that was where we broke down.

SENATOR BLAISDELL: Yes, that is now being addressed, or we're trying anyway Senator as you know, it was a very complex situation. We had some people that knew a lot about the retirement system sitting with us and really they couldn't come up with the answers. You are absolutely right; we will be looking at that and I appreciate the opportunity of sending it down to Senate Finance.

#### AMENDMENT TO SB 174-FN

Amend the title of the bill by replacing it with the following:

##### AN ACT

eliminating the Social Security offset provision for service  
rendered on or after July 1, 1987, for service and  
disability retirement benefits for group I  
members under the New Hampshire  
retirement system.

Amend the bill by replacing all after the enacting clause with the following:

1 Service Rendered Before July 1, 1987. Amend RSA 100-A:5, I(b) to read as follows:

(b) [Upon] For service [retirement] rendered before July 1, 1987, an employee member or teacher member of group I shall receive a service retirement allowance which shall consist of: (1) a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement; and (2) a state annuity payable prior to the member's attainment of age 65 which, together with the member annuity, shall be equal to 1/60 of the member's average final compensation multiplied by the number of years of creditable service. After attainment of age 65, the state annuity shall be reduced by 1/120 of the member's average final compensation not in excess of the applicable Social Security breakpoint for each year of creditable service; provided that such reduced retirement allowance, together with the primary insurance amount, shall not be less than the service retirement allowance the member

was receiving prior to attainment of age 65; and further provided that no such reduction shall be made in respect to any teacher for years of creditable service between July 1, 1945, and July 1, 1950, and for those years of creditable service between July 1, 1950, and July 1, 1957, with respect to which the teacher did not elect a refund of past contributions under RSA 192:21. For the purposes of the above, Social Security breakpoint shall mean \$4,200 with respect to each year of prior service and shall mean the maximum amount of taxable wages under the Federal Insurance Contributions Act as from time to time in effect with respect to each year of membership service.

2 New Subparagraph; Service Retirement; Social Security Offset Eliminated for Service Rendered on or after July 1, 1987. Amend RSA 100-A:5, I by inserting after subparagraph (d) the following new subparagraph:

(e) For service rendered on or after July 1, 1987, an employee member or teacher member of group I shall receive a service retirement allowance which shall consist of: (1) a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement; and (2) a state annuity which, together with the member annuity, shall be equal to 1/60 of the member's average final compensation multiplied by the number of years of creditable service.

3 Ordinary Disability Retirement for Service Rendered before July 1, 1987. Amend RSA 100-A:6, I(b) to read as follows:

(b) [Upon ordinary disability retirement] For service rendered before July 1, 1987, the group I member who has attained age 60 shall receive an ordinary disability retirement allowance which is equal in amount to a service retirement allowance; otherwise the member shall, as provided in RSA 100-A:5, I(b), receive an ordinary disability retirement allowance which shall consist of: (1) a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement; and (2) a state annuity, payable until the member is eligible for an unreduced benefit under the Social Security Act, which together with the member annuity shall be equal to 1.5 percent of the member's average final compensation times the number of years of creditable service at the time of disability retirement; provided, however, that such allowance shall not be less than 25 percent of the member's average final compensation or greater than 1.5 percent of the member's average final compensation multiplied by the number of years of creditable service the member would have had had the member remained in service until attain-

ment of age 60. After the member is eligible for an unreduced benefit under the Social Security Act, the state annuity shall be reduced to an amount which, together with the member annuity, shall be equal to 90 percent of the service retirement allowance that would be payable after attainment of age 65 as provided in RSA 100-A:5, I(b) on the basis of the member's average final compensation and creditable service at the time of the disability retirement; provided, however, that such reduced disability retirement allowance, together with the primary insurance amount, shall not be less than the ordinary disability retirement allowance payable prior to eligibility for a primary insurance amount.

4 Accidental Disability Retirement before July 1, 1987. Amend RSA 100-A:6, I(d) to read as follows:

(d) [Upon accidental disability retirement] For service rendered before July/1, 1987, the group I member who has attained age 60 shall receive a service retirement allowance; otherwise, as provided in RSA 100-A:5, I(b), the member shall receive an accidental disability retirement allowance which shall consist of: (1) a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement; and (2) a state annuity, payable until the member is eligible for an unreduced benefit under the Social Security Act, which together with the member annuity shall be equal to 50 percent of the member's average final compensation. After the member is eligible for an unreduced benefit under the Social Security Act, the state annuity shall be reduced to an amount which, together with the member annuity, shall be equal to the service retirement allowance that would be payable after attainment of age 65 as provided in RSA 100-A:5, I(b) on the basis of the member's average compensation at the time of the disability retirement and 30 years' service.

5 New Subparagraphs; Disability Retirement; Social Security Offset Eliminated for Service Rendered on or after July 1, 1987. Amend RSA 100-A:6, I by inserting after subparagraph (d) the following new subparagraphs:

(e) For service rendered on or after July 1, 1987, the group I member who has attained age 60 shall receive an ordinary disability retirement allowance which is equal in amount to a service retirement allowance; otherwise, as provided in RSA 100-A:5, I(b) and (e), the member shall receive an ordinary disability retirement allowance which shall consist of: (1) a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement; and (2) a state annuity, which together with the

member annuity shall be equal to 1.5 percent of the member's average final compensation times the number of years of creditable service at the time of disability retirement; provided, however, that such allowance shall not be less than 25 percent of the member's average final compensation or greater than 1.5 percent of the member's average final compensation multiplied by the number of years of creditable service the member would have had had the member remained in service until attainment of age 60.

(f) Upon accidental disability retirement, the group I member who has attained age 60 shall receive a service retirement allowance; otherwise the member shall receive an accidental disability retirement allowance which shall consist of: (1) a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement; (2) a state annuity payable until the member is eligible for an unreduced benefit under the Social Security Act which, together with the member annuity, shall be equal to 50 percent of the member's average final compensation; and (3) a state annuity payable after the member is eligible for an unreduced benefit under the Social Security Act which, together with the member annuity, shall be equal to the service retirement allowance that would be payable after the member's attainment of age 65.

6 Application. The provisions of RSA 100-A:5, I(e) and RSA 100-A:6, I(e) and (f) as inserted by this act shall apply to service rendered on or after July/1, 1987.

7 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Referred to Finance under Rule 24.

SB 175-FN, Providing a cost of living increase for New Hampshire retirement system members. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This bill before you will provide a 5% cost of living adjustment to retired teachers, our state employees, our fire fighters and our police officers. Over the years the increases we have given to these retirees would compare to the rise in the consumer price index. For those who retired prior to 1976 we'd have to double and, in some cases, even triple their retirement benefits just to equal the purchasing power that their benefits had when they retired. I emphasize this that the 11 million that it would cost to fund this modest increase will come from the special account of the retirement system which the legislature created in 1983. That ac-

count and this is hard dollars, we've heard about soft and hard, but that account currently has \$26 million available to be used for benefit improvements. If the member groups of the system have made this increase for our retired employees their number one priority in the special account. Prior to the establishment of this special account, these increases haven't been funded out of the state and general funds. This special account now gives us a mechanism within the retirement system of their money to provide reasonable increases in retirees' income. Some of our older retirees are trying to survive on incomes which are absolutely disgraceful. I bring out the point that there's some of us who have sponsored these retiree benefits over the years. I want to tell you this, by the way, to let the Senate know that I will be back on the floor next session along with Senator Hough with another bill. But between now and that time I'll be working with the retirement system and its member groups to look at ways we can assist those who have been retired the longest and whose small benefits have been eroded the most. I say if it's the last thing I do as a member of this Senate, I intend to see that these older persons who have dedicated their entire life to New Hampshire children, are able to live out their remaining years with dignity they justly deserve. I ask you to support the committee report to pass SB 175 as doing precisely what we envisioned when we established this special account of the retirement system and certainly it will be referred to Finance and I would appreciate your courtesy.

SENATOR NELSON: Senator Blaisdell, would you just tell me again the name of this special account and how much money is in that account?

SENATOR BLAISDELL: Senator, this was established in 1983, it's a special account. If you want to know how much is in the retirement system, it's close to a billion dollars. But we set aside a special account and it's up to \$26 million and every bill so far that we got in here won't come up to the \$26 million. This is only \$11 million for the first year and then we will take another hard look at this special account when we come back in the next session.

SENATOR NELSON: From where do the funds come?

SENATOR BLAISDELL: It comes from their own retirement, from the people that pay into it, it is a funded account. By the way, Massachusetts is about \$5 billion in the hole; New Hampshire is worth about a billion.



SENATOR NELSON: What is the mechanism that takes the money from a retirement fund and puts it in a special fund, how is that established?

SENATOR BLAISDELL: That fund is the excess earnings over the 8%. By the way, it's their money, Senator, and I'm sorry you caught me off guard.

SENATOR WHITE: It has been traditional since the legislature started to give one cost of living increase to the retirees. This is starting a new precedent by giving one increase this year and another increase next year. We are now in the mode of annual sessions and I would hope that when it gets to Finance that they would take that second year off so that we can look at the amount of money that we have been spending from the special fund. The three bills, the one we just heard SB 174, this one and SB 200 plus two bills yesterday are all taking some money out of that special account. The three bills today, I don't remember about the bills yesterday, but the three bills today have not been able to get a determination from their retirement system as to the cost of any of these bills. I hate to continually pass bills that we do not know what the costs are. Granted we have the money in the special account and this is the only way that we can get the money out of the special account is via legislation. But I would hope that we could amend it to eliminate that second year at least until we find out what is in the fund, what we spent yesterday was the group II people and what we have just spent on SB 174 and not start a new precedent of giving two years' cost of living since we are in annual sessions. Therefor, I will speak to Finance when it gets down there, but I hope when it returns to the floor that we have a costing of all the bills that we have been doing in regards to the retirement system. In response to one of Senator Nelson's questions, not only is it the money that the retirees put in, it is also the excess earnings from the money that the employers put in which includes the state and the local communities either through the school district or from the municipalities if they are in the New Hampshire retirement system for the fire fighters. So it was a bill that we worked on for four years to finally come to an agreement to set up the fund. I would hope that in one year we wouldn't destroy the entire fund. I hope Finance is very careful when they look at it.

#### AMENDMENT TO SB 175-FN

Amend the bill by replacing sections 1 and 2 with the following:

1 New Section; Cost of Living Adjustments. Amend RSA 100-A by inserting after section 42-b the following new section:

100-A:42-c Additional Allowance. As of July 1, 1987, all beneficiaries of the New Hampshire retirement system or of its predecessor systems who retired prior to July 1, 1985, and who are receiving retirement allowances according to RSA 100-A or to RSA 100, RSA 102, RSA 103, or RSA 192, except teachers retired prior to July 1957, shall receive an additional allowance of 5 percent. The additional allowance shall become a permanent part of each beneficiary's base retirement allowance, as provided in RSA 100-A:42-a.

2 Funding of Additional Allowance. The total actuarial cost of providing the additional allowance as provided in section 1 of this act shall be funded from the special account created by RSA 100-A:16, II(h) on a terminal basis and shall be paid each year for the life of the beneficiary.

Amendment Adopted. Referred to Finance under Rule 24

SB 200-FN, Permitting group II state employee members who reach age 60 to make an election for retirement benefits. Ought to Pass. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This is a bill that passed both the House and the Senate last session. In the last session this legislature transferred the Forensic Unit of the New Hampshire Hospital to the New Hampshire State Prison where it became the secure psychiatric unit. We did this in recognition of the need to provide greater protection to the community, as many of these people have committed the most serious and violent crimes. As part of this transfer many of the employees moved from the New Hampshire Hospital to the Prison. In this move many of their job responsibilities changed and many became correctional officers, recognizing that the legislature changed them from group I members of the retirement system into group II members, which is where this legislature placed correctional officers a decade ago. In making this change from group I to group II, we believe we are giving them an improved benefit. For many that is true, but unfortunately for a few this is not the case. As group I members they would have been able to retire at age 60 and to receive the retirement benefits based on the number of years of service. In group II if they reach age 60, they can only retire if they have 20 years or more of service. This bill simply corrects this unforeseen situation by allowing these people to retire at age 60, which

would have been the case, had they not been transferred and to receive a pro rated retirement benefit based on the number of years of service in each group. We ask you to let us take this to Finance and take care of the fiscal note.

Adopted. Referred to Finance under Rule 24.

SB 85-FN, Establishing a special environmental court within the Manchester district court. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: SB 85-FN provides for a creation of a special environmental court in the city of Manchester under the existing judicial system. This will be a court that will be exclusively for low fund environmental matters and shall have jurisdiction for violations and environmental ordinances prosecuting in the name of the city. The court will be assigned such cases as public safety, public health, crime prevention and animals running at large, zoning polls, solid waste, noise, substandard housing, trash, and such on housing violations and the fines will pay a cost of the court. The city of Indianapolis is the first such court of the country and it has a phenomenal impact in improving substandard housing. It also eliminates a trash problem and it brings property up to city building code standards. It was established in 1978 and by 1984, it had resolved enough housing and sanitation violations to register an increase of 512% since the creation of that court. Since then Memphis, Tennessee, Pittsburgh, Pennsylvania and Montreal have established similar courts while Detroit, Michigan and Nashville, Tennessee are in the process of establishing environmental courts. The city of Manchester has a case load and it warrants recommendation of it and an environmental court is going to help the city agencies to deal directly with the problem and it will speed up the process. They get knocked down in the court system the way it is presently set up and it takes 60 to 90 days for a relatively simple city complaint to get shuffled through the court system. Some violations, I've been told, take as much as 18 months. The amendment on page 11 provides that the Supreme Court may establish by rule the Environmental Court within the Manchester District Court. It makes it clear that the state will not be required to provide any funding. The committee recommends ought to pass with amendment.

SENATOR JOHNSON: Senator Podles, where does it say that this will not have a cost to the state?

SENATOR PODLES: It says it in the amendment. The state shall not be required to provide any funding as the result of the creation of the Environmental Court hereunder.

SENATOR JOHNSON: Would the Governor nominate the justice for this court?

SENATOR PODLES: I guess we have a District Court Judge now and probably he would do this part time. It has been suggested that perhaps, for the convenience of a lot of the people, it could even happen at night after work, so people wouldn't have to take a day off from work. The judge is there.

SENATOR JOHNSON: Does the bill say that the current District Court will now be designated as the Environmental Court?

SENATOR PODLES: No, it does not. It says that the Supreme Court, may by rule, establish this Environmental Court.

SENATOR JOHNSON: Is it your understanding then, Senator Podles, that that statement provides that they also have the authority to transfer the District Court Judge and make that person what's essentially a city judge?

SENATOR PODLES: Yes, by rule they can do this.

#### AMENDMENT TO SB 85-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Manchester District Court; Special Environmental Court.

I. The supreme court may establish by rule a special environmental court within the Manchester district court. Any justice or special justice or associate justice of the Manchester district court may be designated justice of the environmental court. The supreme court may establish by rule the jurisdiction of the environmental court, provided that, notwithstanding any other provision of law, the environmental court established hereunder shall have criminal, and civil, including equity, jurisdiction over violations of city of Manchester environmental ordinances prosecuted in the name of the city.

II. For purposes of paragraph I, "environmental ordinances" shall mean any and all ordinances which proscribe, limit, or otherwise impose controls upon the use of land, air, or waterways. These include ordinances governing air, litter, solid waste, animals at large,

public safety, public health, buildings, signage, fire prevention, weeds, general nuisances, streets, noise, recreational areas, building code enforcement, and zoning and planning.

III. The state shall not be required to provide any funding as the result of the creation of the environmental court hereunder.

2 Effective Date. This act shall take effect January 1, 1988.

Amendment Adopted. Ordered to Third Reading.

SB 26, Prohibiting homosexuals from donating blood. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: I'm glad to report out on this bill. We amended the bill and struck out everything including the title and the whole body of the bill itself. It has nothing to do with homosexuals donating blood anymore. The bill now deals with placing foster children in homes run by homosexuals.

The same bill was in the House and the House referred it to the State Supreme Court. The Supreme Court returned it to the House and wanted them to define what they meant by homosexuals; that's the way the bill stands in the House. This bill is an identical bill and if we pass it here today, it will go into the House and then the House will have both bills.

I think it's a terrible crime to take a young child of either sex and put them in a foster care home run by homosexuals. I think any normal person should vote for this bill.

Senator Dupont moved to lay the bill on the table

Adopted.

SB 228, Relative to disobeying a law enforcement officer. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: SB 228-FN makes it a crime for a driver in charge of a motor vehicle to give false information when stopped by a law enforcement officer. The amendment just adds that their social security number would have to be required. The committee recommends ought to pass with amendment.

SENATOR JOHNSON: The analysis said that it makes it a crime for a person to do that and I looked at the act itself, but I'm not looking at the amendment so forgive me for that. What kind of a crime is it?



SENATOR PODLES: It would be a misdemeanor.

SENATOR JOHNSON: Does it say that in the bill?

SENATOR PODLES: No, it does not say that in the bill.

#### AMENDMENT TO SB 228-FN

Amend RSA 265:4, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Give a false name [or], date of birth, address, social security number, or any other false information to a law enforcement officer that would hinder the law enforcement officer from properly identifying the person in charge of such motor vehicle;

Amendment Adopted. Ordered to Third Reading

SB 109, Expanding the prohibition on possession of dangerous weapons by felons. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: This bill was reported by the judiciary committee ought to pass with amendment. The amendment is on page 11, all it does is add on a couple more dangerous weapons. They had quite a list of dangerous weapons in the original bill and the committee in its wisdom thought 2 or 3 more dangerous weapons should be added. It also, I believe, expanded the territory that would include coming from other countries. We recommend that it pass.

SENATOR JOHNSON: Senator Chandler, I'm looking at the amendment on page 11 and the fourth line down, I know you are very careful about these things, but I'm wondering what is a slung shot?

SENATOR CHANDLER: That's not a typographical error; there really is a slung shot. It is another type of weapon that is used and can be very lethal. It has a rope on it or something and it can go around the guy's neck. I'm not an expert on this stuff.

SENATOR JOHNSON: I didn't bring my stick up here today, I wanted to make sure that I wasn't in violation of this bill here in regards to the sword cane. This bill will not eliminate the walking stick that I am using, will it?

SENATOR CHANDLER: I don't think so, unless you have a sword inside of it.

## AMENDMENT TO SB 109

Amend RSA 159:3 as inserted by section 1 of the bill by replacing it with the following:

159:3 Convicted Felons. No person who has been convicted in this state or under the laws of the United States or any state, territory, the District of Columbia or any other country of a felony against the person or property of another, or of a felony relating to controlled drugs as defined in RSA 318-B, shall own or have in his possession or under his control a pistol, revolver, or any other firearm or slung-shot, metallic knuckles, billies, stiletto, switchblade knife, sword cane, pistol cane, blackjack, dagger, dirk-knife, any martial arts weapons, as defined in RSA 159:24, I, or any other dangerous weapon. Whoever violates the provisions of this section shall be guilty of a class B felony; and, upon his conviction, his weapon shall be confiscated to the use of the state.

Amendment Adopted. Ordered to Third Reading

SB 237, Relative to the controlled drug act. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: This is the bill that I referred to yesterday in regards to the changing in minors being held responsible from 18 to 21. Basically, this was a bill that was requested by the Department of Justice. It was a unanimous decision from the committee of five to nothing. What it does is defines in detail what happens in case of a drug apprehension and what happens to the different pieces of merchandise, homes or anything that is apprehended at the time of the crime. It also details the penalties. It breaks down the misdemeanors and the felonies. I think it is a very good bill that finally tells us what will happen with the forfeited items and where it will go. It's an extension, I would believe, of the drug forfeiture act that we passed in the last session.

SENATOR BLAISDELL: Senator White, you and I talked about this before. Remember when they talked about the drug forfeiture act and how much money was in that fund; it's getting to be quite a fund now isn't it?

SENATOR WHITE: I don't know the exact amount. The bill does limit it to \$100,000.

## AMENDMENT TO SB 237-FN

Amend section 5 of the bill by replacing it with the following:

5 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Referred to Finance under Rule 24

SB 127, Regulating abortions. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: SB 127 requires that all abortions, after viability, be performed only in a hospital on an inpatient basis. It further requires that a second physician be present at an abortion. Should an emergency exist, the attending physician would be required to certify in writing on a form prescribed by the Department of Health and Human Services, the basis for this judgement. Violation of this procedure constitutes a class B felony and the committee recommends ought to pass.

SENATOR MCLANE: This bill is again an attempt to define viability. I believe that I said in my debate last week, that there are no abortions in New Hampshire after viability; you're in the 3rd trimester. The only situation where there would be a true medical emergency is when the mother is about to die and I believe that this bill would cover that case. The only other problem with this bill is that you do have certain rural situations where there are not two doctors available. I don't think that this is a bill that is worth fighting very hard for. But I think it is another way of harassing adequate medical care for women in need. I would vote against it.

Adopted. Ordered to Third Reading

Senators Hough, Pressly, Freese, McLane, Krasker, Torr and Johnson wished to be recorded in opposition.

SB 124-FN, Prohibiting abortions performed on certain minors without parental consent. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: I'm honored to stand up and speak on behalf of this committee report of ought to pass. As in the past years the testimony was from those who refer to themselves as pro choice and those who refer to themselves as pro family. This bill was sent into the House last year and got tabled or whatever, but that was how it met its final demise. I don't interpret this bill as an effort in any way, to harass any legitimate medical procedures. I think the bill is clear as far as a minor having an abortion; that parents are rightfully in-

volved in the process and that in the event that there are situations that they are not, there is adequate relief that the courts shall quickly address the problem. It's interesting to me that you send your children into the high school and the nurse will not give them an aspirin without parents' consent. It is also interesting to me that the youngster can go to a dentist and not have a tooth extracted without parental consent. It's interesting to me that we in the legislature mandate that you must be 21 before we allow you to legally consume alcohol, even though you're an adult at age 18. And isn't it interesting that we in the legislature, just recently said, that if store owners sell cigarettes to a 15 year old, we will fine you for allowing them to purchase or smoke cigarettes. Isn't it interesting that if a teenager breaks the neighbor's window, then they are liable for repair of the windows. I see some inconsistencies. Shouldn't we say, at least, the parents, mothers and daughters, can handle a situation as traumatic as it might be. One opponent suggested, speaking to the bill, that this could crowd an already overcrowded court docket. Frankly, I don't give a damn. Isn't it true that to commit a person that is mentally ill to a hospital, that we get quick court action. If someone is on death row and trying to get another hearing, the Supreme Court Justices and the Governors react to them quickly. I think it is interesting, also, that when I inquired of the lady from the clinic in Portsmouth, if there were ever complications resulting from an abortion as unlikely as they may be, whether it be hepatitis or other infections that might follow any medical procedure, who do you seek to pay for hospitalization and fees of treatment? The answer was, the parents' insurance, of course. Isn't that interesting that of final analysis if something goes wrong, that we seek out the parents who rightfully so should be sought out regarding minors. If this bill says, stop and think, if you feel as strongly as I do about family and abortions, that abortion as viewed today and the percentage of abortions and where they are performed, be referred to as a form of birth control not for social reasons. That sounds terrible, but a small percentage are performed when the mother's life is in danger. If you believe as I do, that in my mind and no question will change my mind or I'll certainly yield to them, that the decision is to be more than the Dred Scott decision. I think that it will be the biggest regret and tragedy of the entire century, never mind this generation. We know all parents aren't perfect; we know all families don't have a perfect environment, but most families and mothers and fathers are good parents. In those circumstances where there are problems, where there are foster parents, this bill permits the ap-

propriate avenues to be followed, to take into consideration at least the proper concerns of the parents. I urge you to support this committee report.

SENATOR MCLANE: If this bill could accomplish what its proponents intend to accomplish, I, too, would be for it. But you cannot legislate communication. 95% of the teenagers who have an abortion consult their parents now. I think probably the most important testimony that you heard Senator Preston, came from the young woman who is the court appointed attorney in Massachusetts and has dealt with some of the 900 petitions that have gone through the Massachusetts Courts. Her testimony was that not a single abortion has been prevented. The reason is for those young woman, and let's face it, if they are going to have a baby they're a woman, they are not a child, if they cannot consult with their families for various reasons, that their father is the father of the baby, that their father is an alcoholic, that their mother hasn't talked to them in ten years, name the reason, those young women are then forced into a court system where a man in black robe, that they have never met, has to say to them "yes, you are mature enough to make your decision about abortion or no you are not mature enough to make that decision and so therefore you are going to become a mother at age 13". Is that a sensible decision? Of course not. Every single one of those cases finally end up with the judge saying, "yes, you are mature". If you are mature enough to have a baby, then you are mature enough to make available to yourself your constitutional right to privacy over your own body. It is a constitutional guarantee and for that reason you will have to go the judicial route. They've tried it in Massachusetts and there is no less number of abortions and there is no increase in young woman carrying their baby to term, which is, I assume, what you all want to happen by being for this bill. So for the very reason that you are opposed to abortion, you should also be opposed to this bill because this bill does not do what you and I would both hope it would do, which is to force a young woman in the deepest trouble of her life, to turn to a family. She is going to do it if she possibly can and if she can't, what we are doing is putting 100 barriers more in her life, at the state expense, need I add.

SENATOR WHITE: Senator McLane, you referred to the testimony of Jamie Ann Savino from Massachusetts. Would you believe when we questioned her if anyone had spoken with people involved, had she spoken to anyone five or ten years down the road and she said, "no"?



SENATOR MCLANE: Five or ten years down what road?

SENATOR WHITE: After the abortion.

SENATOR MCLANE: I don't think that is her responsibility. She is the person going to court to represent these two young women. You're suggesting that she talk to them to see if they have any psychological problems down the road.

SENATOR WHITE: Would you believe in her testimony, she said there has been a gradual and steady decline in child bearing among Massachusetts during the ten year period?

SENATOR MCLANE: As there has been in all the United States and no different in Massachusetts.

SENATOR WHITE: Wouldn't you think that that would be because perhaps we are finally coming to grips with the problem of teenage child bearing? Maybe it is because of parental consent laws?

SENATOR MCLANE: I would not say that, because there are very few states that have a parental consent law and there is no difference between the number of teenage pregnancies and the number of teenage abortions, those states that do have the law and those states that don't, I think her very testimony of the 600 to 900 petitions that she saw through the court system, 97% of them the judge said, "if you are old enough to have a baby, you are old enough to decide whether you want to or not". That was the evidence.

SENATOR WHITE: Along with what you just said and what you said during your testimony, you said if they are mature enough to have a child, then they are mature enough to go through an abortion. Would you believe that with the opinion of the committee, that, in fact, they were immature when they unexpectedly became pregnant?

SENATOR PODLES: Senator McLane, would you believe that there has never been any effort to repeal the law in either the State of Massachusetts or Rhode Island?

SENATOR MCLANE: I am not speaking for the legislatures of Massachusetts and Rhode Island. I am saying that the experience in the court proves that the object of the law, which is to increase communication with families and to prevent abortions, has failed on both those respects.

SENATOR KRASKER: I would doubt that the debate is going to change anybody's vote and so I won't prolong it. I will just tell you about a call that I got from a former school nurse at Portsmouth High School asking me to oppose this legislation. She said in all her years of being a school nurse, she found that in 90% of the cases where pregnancies had occurred, the teenager always went to the parents. She said the trouble with this bill is that you penalize the most vulnerable of the young women. The young women who don't have the warm loving families to turn to and who therefore are the victims of this kind of legislation. I think statistically we find that everywhere it would be the same situation, not just in one town. I'm therefore going to oppose this bill and close by saying that when the Minnesota courts struck down the Minnesota law, which had been in effect for about five years, they said they couldn't find any factual basis for finding that the law either protected pregnant minors or assured family integrity. I think that is also the case for this legislation and I would urge you to vote it down.

SENATOR HOUNSELL: Senator Preston, it's my understanding that there is parental consent law in Massachusetts?

SENATOR PRESTON: Yes.

SENATOR HOUNSELL: Did you receive any testimony or do you have any feeling that there may be an exodus of Massachusetts teenagers coming to New Hampshire seeking abortion without parental consent?

SENATOR PRESTON: I couldn't use the word exodus, but that is a concern of mine that some youngsters might come over the border with friends when they do discover a youngster is pregnant, Senator. I think that the testimony that I heard, same person that Senator McLane referred to, that it did prevent one abortion from Massachusetts, I see that as a good reason why I would not oppose this bill because it doesn't do what their great fears are. If I was Senator McLane I would vote for my committee.

SENATOR HOUGH: I rise in opposition to this bill as I have in the past. I've listened to my close friend and colleague, Senator Preston. I know that he feels very deeply about this issue and it is a subject that wrenched his conscience in the past as it has mine. Interestingly enough, Senator Preston and I come from similar backgrounds, experience and enjoy the same beliefs and faith in many instances. But I think there also has to be a recognition of what is

public policy and what is personal beliefs in regard to all of these issues. I would like to address my comments, not so much as a member of this legislature, but as a parent and of the 24 of us in this room, most of us are parents. Most of your children and in some instances your grandchildren I have met and the rest of us have met. But for the 24 of us, and let's be perfectly honest with ourselves, for the 24 of us who are parents and most of you have been successful as parents, as your children are now the parents of your grandchildren. To some of us, such as Senator Dupont, who is just beginning, or to people such as myself who find my two children in their early and mid teens, the fears have just begun. Until your children leave you in honest success that your child will be, you will live in fear. Those of you whose children have been raised would agree with me, but we are different individuals, we are successful people, we are people that are involved with the communities, we are involved in leadership and we are very concerned about our own children and our own families. The chances are very good that our children will be successful also and we recognize that. Most of your children that are adults are successful and you are proud of them. But can we be objective because there are children and there are young people who come from different traditions and do not have the advantages, and find themselves in far different situations than our children.

I remember a former colleague of ours, Senator Rock. Senator Rock had probably one of the most beautiful relationships with his children that any parent and child could have. Although the issue is quite different, if my memory serves me correct, it was a question of the drinking age and Senator Rock, who everybody assumed would have voted in a way quite contrary to the way he did and his reasoning was this, this is an issue that affects young people and I have come to my decision in casting this vote by discussing this issue with my children. I have enough confidence in them acting as responsible young people so that I will support their position. I think that tells us something very significant.

The point is, of the 24 of us and of those of us who are parents, we are having to be asked to make a decision relative to this question that denies an opportunity for adults, be they minor adults under the law, to have the necessary options for fighting for that last element of success. I do not believe that we should legislate in this fashion. I think for the young adults in this state that are considered minors under that law but adults, that we should not deny them the opportunity to seek the best course in a very difficult position. We should not pass this piece of legislation.

SENATOR CHANDLER: I too, was a good friend of the late Senator Rock of Nashua and I'm glad that his name was brought up this afternoon because his daughter Barbara is one of the leading ones in the New Hampshire right to life movement. He brought her up to respect life and to be a good Christian, which she has followed those good precepts all of her life and is a very fine person. She would support this bill I'm sure if she was here today.

We've heard a lot of talk, a lot of arguments, a lot of high sounding phrases this afternoon. The fact remains that abortion is murder in the womb. Anybody that advocates it, should consider the capital crime. Abortion is against the law of God, religion and nature. If nature thinks a child should be aborted then they provide for a miscarriage. I don't think that any child should be able to go and have an abortion on her own, without her parents knowing about it. I've got four children, ten granddaughters, six grandsons and six great-grandchildren. If one of my daughters, years ago we'll say that she was twelve years old, should have unfortunately become pregnant, I would want to know about it so I could make the decision and help her out in her difficulties and help her out in the terrible time she was going through. But under no circumstances would I want her to have an abortion. I think that is a parent's right to stop the child from having an abortion, as long as they are minors.

In this statement that the female lawyer made, if a child is old enough to be pregnant, then she is old enough to make the decision. That is ridiculous. How about the girls that get pregnant when they are 11 or 12 years old. Do you think they are old enough to make an important decision and do something without the parents knowing about it?

I hope that this bill will pass here this afternoon. I think all good Christians and good thinking people would vote for it.

SENATOR ROBERGE: I am the sponsor of SB 124-FN. There is one aspect of the bill that has not been discussed today. The bill essentially says to the young lady, stop and consider. Consider that an abortion is perhaps not the answer. You are going to remember what you have done; you are not going to necessarily forget after the procedure has been completed. If, in fact, you do consult your parents and they give their permission or in fact you go to court, this is a decision that you will have to live with and if your parents do make the decision and help you then they will help you later on when you possibly have flashbacks. It has been proven that many young ladies

have flashbacks five years later, very frequently on the day that their child would have been born. I think it would have been something that we are saying, stop and consider. This will bother a young lady, perhaps for the rest of her life. Before she makes that decision I think she should be aware of that.

Senator Preston requested roll call.

Senator Chandler seconded.

Those in favor: Senators Bond, Hounsell, Heath, Dupont, Chandler, Disnard, Roberge, Blaisdell, White, Nelson, Podles, Stephen, St. Jean, Delahunty, Preston.

Those opposed: Senators Freese, Hough, Pressly, McLane, Johnson, Torr, Kraker.

15 Yeas

7 Nays

Adopted. Ordered to Third Reading.

SB 158, Relative to limitations of prosecutions of sexual assault offenses. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: SB 158 removes the limitation on reporting sexual assault. Up until this time you had to report a sexual assault within six months of the occurrence. This just repeals that, it removes it and makes it consistent with the rest of the statutes six years.

Adopted. Ordered to Third Reading.

SB 194-FN, Relative to carrying pistols and revolvers without a license. Interim Study. Senator White for the Committee.

SENATOR WHITE: At the hearing that we held on this bill, we had a proposed amendment that was brought in to us. Both the proponents and opponents of the measure felt that it was best to sit down and study it because there was conflicting language in the bill itself in regards to what is covered today and what they want to cover in the future. Even the proponents agreed to leave out one section, because they didn't know what they were doing when they put it in there. We feel that it needs further study.

Adopted

Taken from the Table

Senator Dupont moved to take SB 26 off the table.



SB 26, Prohibiting homosexuals from donating blood. Ought To Pass with Amendment.

Adopted.

SENATOR KRASKER: Am I correct that the amendment does not relate to the title of the bill?

CHAIR: That is correct.

SENATOR BLAISDELL: I think Senator Chandler did an excellent job explaining what was in the bill and what wasn't. I'm wondering if we couldn't ask the good Senator from the 7th district to get up and explain to the Senators who were over at the Chinese restaurant what you've done with the bill, I think it would be helpful.

SENATOR CHANDLER: From a procedural point of view, the bill had been into the Senate before and then recommitted. After it was recommitted, the Senate Judiciary Committee completely amended it. The only thing it retained was the bill number.

What we did was put on the bill that Representative Ingram had in the House, concerning homosexual foster home operators. So it has nothing to do with homosexuals' blood. That bill was identical to the bill that is in the House now, in which the House referred to the Supreme Court for a decision. The Supreme Court returned the bill to the House and asked for a definition of a homosexual. So they wouldn't make a ruling on the bill until they got a definition of precisely what was meant by homosexual. That's the situation right now. If the Senate would see fit to pass this bill, to indicate our opinion on the subject and go into the House, then the House would have two bills that were just the same as each other and they could decide what they are going to do with them. I don't know whether they are going to carry through and try and draw up a definition or whether they are going to ask Senator Johnson for his dictionary or what they'll do. But I think this bill would be something that we should approve of. It's a horrible idea to take young children of either sex and put them into a foster home that is run by two homosexuals or one homosexual, because it's an unhealthy situation for a child to grow up in. It follows, like night follows day, that the child would be in some danger to be in some environment like that. I know that I wouldn't want any grandchild or great-grandchild of mine to be in such a home and I don't think that any person in their right mind would want that either.

SENATOR MCLANE: Let me see if I can be very clear about my objection to this bill. The thing about a homosexual, as you say, is that there is no way to tell whether someone is a homosexual or not. There is no blood test. I used to think that they were all the people who wore pink shirts. I remember saying this and, turning around then, neck ties. The point is, unlike Alzheimer's disease, which after you are dead they can do an autopsy of your brain and find out if you have it, no one knows how to identify those, some estimate to be one out of ten people, who are homosexuals. The only definition that society seems to recognize is whether you are married and have children, then they assume you are not a homosexual, even though one out of 20 marriages have a homosexual as one of the two partners. Or if you are single, then it is assumed that you are. You have 800 foster parents, of that number, I am sure that some married couples of them are homosexual, but there is no way to know this. You also have cases of children, particularly those that have been sexually abused, that need a loving warm environment that may be one in which there cannot be a male partner, so what you need is a single person, as long as society can't tell whether that person is a homosexual or not. All this bill does is harass those foster parents that we have now, that we're trying to pay adequately, that we are trying to admire, that we're trying to help and say to them, "you're under suspicion", for what, we don't know, you wear pink shirts, something. So you are turning to this group of professional people that are trying to take care of children that are our responsibilities and trouble and casting upon them a suspicion. Because that's all you could define it as, is a suspicion. If there were a blood test, like AIDS, that you could take and say are you or aren't you, that would be a different matter, but it isn't true. So this section of our society, which you cannot identify, is being pushed onto a group of public service that we need. I would say that this bill should be voted down, because you can't tell who is homosexual and you would be harassing foster parents.

SENATOR HOUNSELL: Senator McLane, you said just now if I understood, that if there was a means of detection, it would be a different matter. Can I take that to assume that you would support the provision of the bill?

SENATOR MCLANE: No. I do not, because I watch the TV shows and have heard expert social workers say that there are certainly very rare circumstances where a child would be better off in a single sex family. How do you know two people living together are homosexual?

SENATOR HOUNSELL: This bill and my support of this bill, is not a judgement upon people's life style. I'm trying very hard to make sure that that comes across. I have to say that what we are dealing with here is attempting to protect those children who have been placed, for whatever reason, into the care of the state and I say the state's adoptive children. I would just have to ask you, if you were responsible for a child, would you want them to be raised in a home that is a homosexual environment? Upon saying that and listening to the debate and watching the many forms that it is going to and coming out of and going to again and trying to pick up responses here and there. I note one from an association of people who were former foster children. They made this statement of paraphrases, that to be a foster child is tough enough and to be a foster child in the community and perhaps have that placement be in a home where everyone in the community knows that the foster parent is a homosexual from whatever detection, that can become a traumatic experience of the child. I'm not here to judge homosexuality. I know a number of people who are homosexual. I don't fear them or hate them. I don't look for a way to throw them out of the mainstream of the American life. I respect them, concerned about them as I am any citizen. But this bill is addressing the need of the children who are placed in foster homes. I think it is our responsibility to forget about the discussion of alternate life styles, whether or not homosexuality is discernable or not, but to focus on what is best for the children. That is my support of this bill and I hope that we can send this bill at this time to the House, so this important discussion will continue with support of the full Senate.

SENATOR NELSON: Senator Krasker, would you happen to have with you a comment or copy of the Supreme Court decision concerning this topic? Would you mind telling me briefly what that is, please?

SENATOR KRASKER: I was going to mention it, but because I was late I thought perhaps it had come up. The court requested that it be excused from giving any kind of opinion because there was no definition in the House bill, in which this is similar, of what homosexual means. They say that while homosexual was understood generally shall refer to a person who sexually prefers another of his or her own sex. The court does not know how broadly or narrowly, in this case, it was the House, that would desire that definition to be applied in administering the statute. For example, should homosexual be limited to those currently engaging in physical homosexual practices, should it apply to any person who has ever at any time engaged in

such a practice or could it apply to a person who considers himself or herself to be a homosexual, but who has never performed a homosexual act. I think it bears out with what has already been said, that this legislation does not define homosexuality. It's almost impossible to tell who is a homosexual without any kind of definition and without having a physical stigma that indicates what you are.

SENATOR HOUNSELL: Senator Krasker, as a point of clarification, the document that you read was not the decision by the court as indicated by Senator Nelson, but just a question that the court had of the House, or further instructions that they were requesting?

SENATOR KRASKER: It was an indication that they couldn't rule on it because of the vagueness of the measure. They wanted something more definitive or they wouldn't reach a decision. You are correct, this was not a legal decision.

#### AMENDMENT TO SB 26

Amend the title of the bill by replacing it with the following:

An Act

prohibiting homosexuals from adopting,  
being foster parents, or running  
day care centers.

Amend the bill by replacing all after the enacting clause with the following:

1 Homosexuals Prohibited from Adopting. Amend the introductory paragraph of RSA 170-B:4 to read as follows:

Specifically as follows, any individual not a minor and not a homosexual may adopt:

2 Homosexual Foster Parents Prohibited from Adopting. Amend RSA 170-F:6, I to read as follows:

1. If a child in the custody of the director or a licensed child-placing agency has been in foster care for at least 6 months after the child is legally available for adoptive placement, the director or his designee shall inform the family providing care of the possibility of financial aid for adoption under this chapter. If it is found after investigation that the family caring for the prospective adoptee would be an appropriate adoptive family for the child but for the family's economic inability to meet the child's needs, the director or his designee, after

consultation with local officials as required in RSA 170-F:4, shall enter into a tentative agreement with the family concerning the amount and duration of the proposed subsidy in the event the child is placed for adoption with that family. The director or his designee shall in all cases take all steps necessary to assist the family in completing the legal and procedural requirements necessary to effectuate the adoption, including payment for legal fees and court costs. For the purposes of this paragraph an appropriate adoptive family shall not be any family in which one or more of the adults is a homosexual.

3 License for Foster Family Home; Homosexuals Prohibited. Amend RSA 161:2, IV to read as follows:

IV. Supervision and Licensing. Supervise all foster family homes and child placing agencies provided that it shall not supervise such homes and agencies as are required by statute to be licensed by the division of public health services, department of health and human services. In the case of homes and agencies licensed by the division of public health services, department of health and human services, [wherein] in which are persons receiving assistance through the division of human services, the division of public health services shall, upon request, make available to the division of human services such pertinent information as may be necessary to enable the latter division to ascertain the condition and operation of such institutions and homes for persons receiving assistance from it. The department shall not grant a license to any foster family home in which one or more of the adults is homosexual.

4 New Paragraph; License for Child Care Agency; Homosexuals Prohibited. Amend RSA 170-E:4 by inserting after paragraph IV the following new paragraph:

V. The department shall deny an application if the department determines that the applicant is unfit for licensure by reason of being a homosexual.

5 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading

#### COMMITTEE REPORTS

SB 64, An act legalizing the New London-Springfield water system precinct meeting of March 18, 1986. Ought to Pass. Senator Pressly for the Committee.



SENATOR PRESSLY: The Committee on Public Affairs recommends ought to pass. This bill legalizes all action taken at the New London-Springfield water system precinct meeting, held on March 18, 1986. If the body has any specific questions, I would have them referred to Senator Hough who is sponsoring this bill.

SENATOR BOND: Senator Hough, in the past we have legalized meetings and found out that they were sometimes a little sticky. Could you give us a very brief idea of why this meeting needs to be legalized?

SENATOR HOUGH: I have a copy of a letter sent by the counsel for the community and the district. It was forwarded to Senator Pressly. It outlines all of it. Basically the moderator of the village water precinct in New London took a division vote wherein counted the number of votes cast for the expenditure of \$89,000 which did three things; bought a piece of equipment, extended their lines and bought either hydrants or meters. all of which are in place and the provision was to pay back over a period of three years. The standing division vote counted so many votes, the statute requires paper ballot. The money has been spent, the Department of Revenue wants this legalized by us so in their machinations they can build it in the property tax basis.

Adopted. Ordered to Third Reading.

SB 89, An act relative to electric utility rate increases. Interim Study. Senator Johnson for the Committee.

SENATOR JOHNSON: You only have to glance at the title of this bill to know it's a very complex issue. The testimony before the public affairs committee was rather sketchy that day, legal questions were raised. The consumer advocate for the PUC was not present. It was the judgment of the Public Affairs Committee that there was too much involved for that committee to really consider this issue in that brief period based upon the available evidence in the testimony and recommends it to interim study.

Adopted.

SB 129-FN, An act relative to the establishment of inclusionary zoning. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: SB 129 is permissive in enabling legislation. It adds the additional requirement that zoning ordinance is the design to facilitate an adequate supply of housing affordable to low

and moderate income people. It adds this to an existing RSA which talks about zoning ordinances being adopted in accordance with, for example, less congestion in the streets to secure safety from fire. To promote health and general welfare this adds an additional provision to that list. In addition, it also adds inclusionary zoning, density bonuses and linkage standards to what is now in the RSA talking about innovative land use control. It will enable municipalities the means of becoming involved in affordable housing at the local level. There is nothing now in the law that prohibits municipalities from doing this. This will permit them to do what is not now prohibited by law, it just provides the enabling legislation. No one appeared at the hearing in opposition to this bill.

SENATOR PRESTON: Senator Krasker, a question for clarification if I may. I read words like inclusionary zoning, density bonuses and linkage standards. I do see the word may, but for the record, this bill is not imposing or mandating any more regulations of municipalities through their boards or councils in any way?

SENATOR KRASKER: No, that's absolutely true. The reason that these words are not defined is because in current statute, timing incentive, paved development, planned unit development, cluster development is not defined, so it's consistent.

SENATOR DISNARD: Senator Krasker, if I'm a member of a zoning board or the body in the community that would decide who amends this, what are the guidelines for low income and moderate income people?

SENATOR KRASKER: It's whatever the municipality determines it is. The city of Portsmouth has just undergone this kind of cooperative agreement with a developer. There is a development in Portsmouth which has always provided housing for low and moderate income people. It was sold to a developer who wanted to build two hundred and twenty eight extra units. Cooperatively, the city and the developer entered into an agreement, whereby, in addition for exceeding the density limitation of the zoning ordinance, the developer would establish a fund for low and moderate income housing. It's exactly what the city council in Portsmouth has defined it to be.

SENATOR ROBERGE: Senator Krasker, are we mandating this now?

SENATOR KRASKER: No, it's enabling legislation. As everything else in the current RSA is enabling, this, too, is enabling. They can

do it any way. There is nothing in the law that prohibits them from inclusionary zoning, linkage or density bonuses, this just says you can do it if you want to.

SENATOR NELSON: Senator Krasker on page 1 of the bill line 14, under legislation that says, "every zoning ordinance shall be adopted," yet you have added I, would that be enabling or would it be mandatory to the communities?

SENATOR KRASKER: This would be one of the requirements for designing the zoning ordinance.

SENATOR NELSON: Senator Krasker, were there many cities and towns testifying in favor of this legislation?

SENATOR KRASKER: No one testified against it.

Senator Heath moved to substitute Interim Study.

SENATOR HEATH: With a little bit of regret, the apologies to my committee, I am going to move that we send this to interim study. I think there is real vagueness and some serious questions. I think that it may be a far more consequential piece of legislation than some of us believe at this point.

SENATOR PRESSLY: We had a fair amount of testimony from many people regarding affordable housing. In my opinion, all the groups that came together usually at hearings you think that they are going to be adversaries, that they are going to be at opposite points of view. In this case as regards to this bill and SB 149, because they were heard that they appear in concert and as one testified on SB 129 and SB 149 is in concert. The language was carefully chosen and all of the people speaking to this bill, we had the people from the Home Builders Association, we had people there from the State Agency. Marcia Keller attended all of these hearings and was very, very supportive of this language. We had lawyers there who represented the people seeking affordable housing. There was a fair amount of concurrence and some of the changes made in the subsequent bill were all with concurrence. The choice of language was based on court cases. It was determined that there should be a certain amount of flexibility, so that the legislature would send the message that says generally, yes, you must provide adequate housing. But not to define it too specifically, because that is where the important factor came in. If this legislation gives each city and town some guidelines, however, the specifics are to be worked out by the local

governing bodies. It was the view of all concerned that by choosing those words, like to facilitate adequate, that that adequacy should be left up to the local body. It was the general feeling that this legislation, in concert with SB 149, left a nice balance. It sort of said, affordable housing is a problem, and we as a legislature hope that each local body will address it. As far as the determination of how they do it, it was appropriately left with the local body. Based on the variety of people that testified and the support that was given, I feel that this is ready to be sent to the House. I do feel that it is a package that had the support of the state agency, of the home builders and of the people representing the low and moderate income people and people seeking affordable housing. In fact, this is ready to move on to the other body.

SENATOR KRASKER: I sponsored this legislation. It's not a bill that has hidden meaning to it, it really is enabling legislation. If you will look at page 2 of the bill roman I, it says, "innovative land use controls may include, but are not limited to". This does enforce any community to provide inclusionary zoning, density bonuses or linkage standards. But it does provide the power to a community if it wants to. Mine has chosen to do it, it's done it even without this statute. Throughout the state there is such a need for affordable housing and this is a voluntary way for communities to enter into an arrangement. Again voluntarily if they wish to, there is no hidden agenda here.

SENATOR MCLANE: Senator Krasker, is this a bill that the people from Jackson who have raised the money for some low income housing wanted very much, because it was really linkage that they were doing and they wanted to feel that they had some statutory authority for doing that?

SENATOR KRASKER: I believe that was indicated today.

SENATOR HEATH: Senator Krasker, would you believe that it is not my feeling that you haven't hidden the agenda in here. It is my feeling, instead, that there is a huge amount of vagueness and ambiguity, built by accident perhaps in here, that leads to all sorts of interpretations and that my growing concern is the lack of definition, language that suggests that it is mandating instead of an option?

SENATOR KRASKER: The section of the statute that precedes it also has phrases that are not defined. Impact zoning is defined or cluster development so I think this is basic. But again, this section of

the statute is purely enabling. Communities are going to be able to do it anyway. This just allows the enabling legislation to go into the proper statute.

SENATOR HEATH: Would you believe that in my district, as in many districts in this State, there is a need for middle income housing, low income housing. The developers who may potentially involve themselves in this kind of building are very apt to back off if they see bad language and such in determining where they may be going in the future. In that they would be facing long struggles for zoning boards who keep throwing in another poker chip and so on, that they will back out of those projects and leave some of our communities, such as Conway, in the situation of not having enough housing for the workers that it needs for that area?

SENATOR KRASKER: I don't quite know how to answer that with a yes or a no, I can just say that inclusionary zoning really dangles the carrot in front of the developer. The developer agrees to something in return for something, so it really does become advantageous in the case, for example, of a density bonus for the developer to seek this or agree to it. I would think even in the case of Conway it would be advantageous if the developer was getting something in return for whatever it is the town was asking.

SENATOR HEATH: Is there in this legislation any statement as I believe there is none, that allows them to make the linkage, for example, once without continually coming along as the developer is moving forward and changing and adding on other things that they would like and so on. Once he gets so involved that has got his investment on the line, that they keep adding to the project?

SENATOR KRASKER: In the case of Portsmouth Mariner's Village, they worked for about a year's time on coming up with an agreement that was satisfactory to both parties and then they sign the contract.

SENATOR HEATH: That was done during the absence of this legislation?

SENATOR KRASKER: Yes, I think I've said it twice. It's true that this can happen. What this does is put this permissive section into the statute. It just says communities can do this if they want to.

SENATOR HEATH: Is there prohibitory language that prohibits them from coming back and coming back once the project is so far along where the contractor cannot retreat?



SENATOR KRASKER: No.

SENATOR HOUNSELL: Senator Krasker, on the issue of vagueness I'm concerned and maybe you can help me. What is the determining factor to decide the adequate supply of affordable houses and, just for the sake of time, would you explain to me, I'm ignorant to the linkage standards?

SENATOR KRASKER: Sure, it could have been defined and as I say it wasn't because nothing else in the statute was defined. It would provide for affordable housing in return for a certain kind of development and again, it is a voluntary arrangement between a developer and a municipality.

SENATOR PRESSLY: Senator Heath, would you believe that I believe that there was testimony that would prevent the very type of thing that you spoke of. The testimony that I referred to was that by having this in the statute any agreement that a municipality would enter into with someone building, that the agreement that was made at the beginning would, in fact, be eligible to be carried out by both parties. Would you believe that it would prevent the very concern that you were speaking of?

SENATOR HEATH: With all due respect, I would not believe the testimony of the hearing. It would affect the law which does not have that written down.

SENATOR PRESSLY: Would you believe that by having innovative land use controls categorized, that it would give a local governing body the authority to enter into agreements that would hold up in court?

SENATOR HEATH: I would believe that the present law apparently allows that already.

SENATOR ROBERGE: Senator Krasker, under fiscal impact quote, it will increase local expenditures by \$11,250.00 by 1988. That would appear to me that we would be mandating a cost to the local community, do you agree with that?

SENATOR KRASKER: I think if there is a cost to a community, it is so minimal in return for the benefits for the community, that it's probably worth it. It's just having to reprint a zoning ordinance, that's the entire cost.

SENATOR ROBERGE: I understand that.

SENATOR KRASKER: Every time we change a law our municipalities would rewrite and have to reprint its zoning ordinance.

SENATOR ROBERGE: We are still mandating the cost, however, is that correct?

SENATOR KRASKER: Well if the \$250 is what is being mandated, I don't really know that that is going to be the cost.

SENATOR ROBERGE: \$11,250.

SENATOR KRASKER: That's throughout the state; it's current municipality \$250. I don't know if that's the real cost.

Question: Interim Study.

Adopted.

SB 149, An act to prohibit regulations which exclude a municipality's fair share of multi-family housing. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: The amendment appears on page 12 in your book. The analysis of this bill as amended, provides that no municipality shall exclude multi-family housing. The bill as amended requires any municipality which adopts land use regulations, to afford reasonable opportunities for the development of multi-family housing, as a permitted use or a special exception under conditions clearly stated in the local regulations.

This is the bill I referred briefly to where three different special interests that one would normally expect to conflict, came together. They all supported the concept and as the hearing progressed it was very clear that there was a united feeling. All three groups sat down together and suggested this amendment. The three groups being the Builders, Office of State Planning and an attorney who represents the Moderate Income Group. The thrust, as you can see by the amendment, shortens and simplifies the whole concept. It is basically stating that the State of New Hampshire does take a position philosophically that no community can exclude multi-family housing. That's all it says as far as philosophy and then it does say that each municipality has the authority, the ability to determine by themselves what is reasonable opportunity. The original bill and the debate was very long and fierce. Someone was trying to look for formulas and percentages. The feeling was that that just will not work, that

each local municipality should have the authority, and rightly so, to decide what is reasonable and it is rather delightful to feel that there was an enormous support from groups that spoke before the hearing. They didn't start out that way, but at the end of the hearing there was an enormous amount of concurrence. I think this is legislation that the State Senate would be very proud to pass.

SENATOR CHANDLER: Senator Blaisdell, at the bottom of the first page, line 16, says each municipality shall, by regulation and ordinance, encourage the construction of multi-family housing to equal 10% of the opposed well as it's unit to the community. How is Warner going to try to encourage the 10% of our construction being multi-family? How is Warner going to do that?

SENATOR BLAISDELL: I think if you talk about the amendment, I believe Senator Pressly, it has been amended out of the bill, Senator Chandler.

SENATOR JOHNSON: Senator Pressly, did you remind the Senate body that this bill as amended, was strongly supported by the New Hampshire Home Builders Association?

SENATOR PRESSLY: Yes, I did. Not only the Home Builders, but Marcia Keller of the Office of State Planning was quite pleased to support this. There was a question of did we eliminate, this is the original bill, Senator Chandler, and you can see quite clearly there were some enormous changes and the amendment is very brief and concise and it appears on page 12.

SENATOR ROBERGE: Senator Pressly, would you believe that I feel that that is a decision which could be made at a town meeting by each community individually?

SENATOR PRESSLY: What should be?

SENATOR ROBERGE: Whether to adopt an ordinance like this, I don't think we should be amending against the communities.

SENATOR PRESSLY: I believe that and I believe that is required by statute and that, in fact, would take place. But in each community, on a community by community basis would be able to do that very same thing.

SENATOR HOUNSELL: Senator Pressly, on page 2, I think in your amendment, it says, each municipality shall have one year from the date this act becomes effective to make its master plan. Am I to

understand that those communities that don't have master plans will be required to adopt this master plan?

SENATOR PRESSLY: Not at all. That whole section was eliminated. The replacement appears on page 12 which has any municipality which adopts land use control regulation, shall afford reasonable opportunities for the development of multi-family housing as a permitted use. I think your objections were eliminated.

#### AMENDMENT TO SB 149

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Multi-family Housing. Amend RSA 674 by inserting after section 32 the following new subdivision:

#### Multi-family Housing

674:32-a Exclusion of Multi-family Housing. A municipality shall not exclude multi-family housing as defined in RSA 674:63. Any municipality which adopts land use control regulations shall afford reasonable opportunities for the development of multi-family housing as a permitted use or a special exception under conditions clearly stated in the local regulations.

Amendment Adopted.

Question: Ordered to Third Reading.

Division Vote:	9 Yeas	14 Nays
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Motion lost.

Senator Blaisdell moved to lay the bill on the table

Adopted.

SB 181, An act creating a state holiday and changing the date in towns for mailing tax bills. Inexpedient to Legislate. Senator Heath for the Committee.

SENATOR HEATH: Just very briefly, we thought there were a lot of unknowns involved in this. Some expenses that were impossible to estimate and there was not a great deal of support for the legislation, so we thought that it was wise not to proceed with it.

Adopted.

SB 225-FN, An act relative to a Martin Luther King holiday. Majority Inexpedient to Legislate/Minority Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: The first vote we took in executive session was a tied vote. We were going to have no report and then another member of the committee wanted to be involved in the executive session of it and it came out three opposed and two for. I will not pretend to represent anyone's point of view as to why they voted, why they did, that is simply the report of the committee.

Senator Pressly moved to substitute Ought to Pass.

SENATOR PRESSLY: First, I would like to point out that there is an error in the opinion of the sponsors in the fiscal impact of this. In that the intention of the legislation was that it would replace totally the fast day, so there should be absolutely no fiscal impact. However, the fast day in whatever methodology that it is handled would apply to this holiday. The purpose of this bill was to give the State of New Hampshire the opportunity to recognize the black movement in our nation through the recognition of a holiday for Dr. Martin Luther King. It is recognized within the community of his people as being someone that they choose to represent. He stood for peace, equality and it is my feeling and the feeling of many, that it is appropriate that New Hampshire today, since it is a state that stands very strong for equality, free choices, treating all people fairly and equally, that the time has now come to recognize the historical aspect of our country through substituting a current day recognition with replacing the fast day, which most people acknowledge as a holiday that is not understood and not particularly important today, with the acknowledgement of Martin Luther King. I urge that the Senate stand recorded as supporting this important aspect of our history.

SENATOR DISNARD: Senator Pressly, does the state now have a state holiday for the great emancipator and the great president of my country?

SENATOR PRESSLY: No. My understanding is that they have put all of the presidents together in what they call a "Presidents' Day".

SENATOR DISNARD: We do not have a special day for the great emancipator?

SENATOR PRESSLY: Not specifically to my knowledge.



SENATOR CHANDLER: I think that this bill is absolutely a ridiculous piece of legislation. Similar bills have been killed several times in the past by the New Hampshire Legislature and they had good reason for doing so. I cannot stand here today and say that Martin Luther King, Jr. was a communist, but I can say that he had many communists in his organization. He socialized with communists, he went to a communists school in the summer up in the Appalachia and they have pictures of him sitting there, in the front row, in a big large tent with two or three hundred people at a communist summer camp. President Jack Kennedy was supposed to have pleaded with Martin Luther King Jr., to disassociate himself from his communist friends and his communist related activities. But it didn't do any good. He continued to keep the same people in his organization and continued to have the same associations. The FBI had him under surveillance for years. The head of the FBI, Mr. Hoover, called Martin Luther King the greatest liar in the country. When Martin Luther King was shot and killed in Memphis, somehow all the FBI files on him were sealed and put away for a certain number of years. There must have been something in those files that they didn't want the public to know, otherwise they wouldn't have taken them out of circulation for forty or fifty years. I don't know when they will be released, probably not in our day, but maybe sometime in the future they will be released. They will show all the bad things that he did. He was an evil, immoral man. He claimed to be a man of peace. But everywhere he went he caused a riot, a lot of times people got killed as a result of his activities in some of the cities. To consider a man like this, to honor him for a holiday, is insane in my opinion. I hope that this Honorable Senate will never vote for such a bill.

SENATOR HOUNSELL: Senator Chandler, does the constitution allow that we have the freedom to associate with whom we want?

SENATOR CHANDLER: Yes.

SENATOR HOUNSELL: Do you feel that I am a communist?

SENATOR CHANDLER: No.

SENATOR HOUNSELL: Would it surprise you to know, that I have sat in forum with people who have avowed their belief in communism in a discussion in the so called The Educational Setting, to have discussed this with them and that my picture can very well have been taken without me knowing it?

SENATOR CHANDLER: Sure.

SENATOR HOUNSELL: Would you believe me if I told you that I certainly hope that no one ever bugs my bedroom?

SENATOR CHANDLER: I won't answer that one.

SENATOR KRASKER: Senator Chandler, I wonder in light of your views about Martin Luther King, how you would explain the phrase that was bestowed upon him by President Reagan, on the anniversary of his birthday?

SENATOR CHANDLER: I am not responsible for what President Reagan says. I have no reason to conceive why he should say such a stupid thing.

SENATOR HOUNSELL: I hope that it doesn't surprise anyone, that I am rising in support of the passage of this bill. I was in attendance at the hearing yesterday. There were several people who came to testify in favor and one person who came in opposition. During that whole time that I was sitting there, I was thinking about the sixties, which I feel that I'm a product of, and time and I can remember an awful lot about it. I can remember racism and I can see racism today, but not quite as flagrant as it once was. Senator Chandler, I think and I certainly respect your position, I certainly feel that you have addressed a lot of concerns that have been addressed. I certainly wouldn't stand here in support of naming a holiday after someone, if they were indeed conclusively proven to be un-American. But, I also have to say that I think back to the life of Christ and the riot that followed him as he proceeded in the disruptive nature of him. A man whose life that I admired and continue to admire as he lives in my eyes. As I consider the history of this nation and his willingness to openly disagree with the establishment to have civil disobedience. As I remember Dr. King, as he was going about on a mission of equality, something that I know that you believe in, pleading with his supporters to reduce the violence, to do their protesting in a non-violent way. I believe, because of Dr. King, we didn't see as much violence that we might have. I believe that Ronald Reagan is a great President and will be remembered in history as a great President. I have his proclamation here. I'm not going to read it, but I am going to have it provided for anyone who would like to see it and I suggest that you read this before you vote. Considering that we are not voting necessarily for a man who indeed had flaws, as we all have flaws. We're not making a judgement necessarily on the evil that he did. What we are saying is that, we are recognizing the good that he did. A lot of what the black community, and the rest of the commu-

nity, of this nation can experience is because of his willingness to die for what he believed in. One of the things that was included in the proclamation and, I'm going to read this to you, is this quote; "Let justice roll down like water, the righteousness of a mighty stream". By honoring Martin Luther King with a state holiday, New Hampshire is agreeing with the rest of the country and indeed with its own tradition that to "Live Free or Die" means exactly that. Martin Luther King, although he wasn't from New Hampshire, had that in his heart and indeed he died. I have no problem but to stand here excitedly, hoping that the Senate will pass this bill.

SENATOR MCLANE: My worst fear is that we not pass this bill and that, in two years from now when this bill comes up again, because it will, that New Hampshire will find itself with Louisiana, Mississippi and Alabama as the only three States of the Union, that do not recognize the state holiday of Martin Luther King. I have researched this bill going back to 1979, when Senator Splaine first had the courage to bring this bill before the New Hampshire Senate. For four years he brought it in again and again and never even had a roll call. In 1979 there were seven states that recognized Dr. Martin Luther King. In 1981 there were a few more, in 1983 there were fifteen, in 1985 Senator Splaine spoke of twenty-three states. Now we are at 1987 and there are forty states. If you could look at a map of those states which call for a holiday for Martin Luther King, you would see that all of New England recognizes this great black leader. The states that hang out are New Hampshire and the far south and Arizona that has just rescinded the Martin Luther King holiday. I am fearful that this state will start to feel the economic impact that Arizona is feeling. I had some dealings with Stevie Wonder's people who wanted to come up to the hearing yesterday. Stevie Wonder has refused to sing in Arizona. The NBA has refused to go to Arizona. This is the sort of thing that could happen to New Hampshire if they didn't join the number, the forty states that recognize Dr. Martin Luther King. I think Mark said it so clearly. This is not a black people's holiday, there are only 4,471 blacks in New Hampshire. Someone said that most of them were in the room yesterday during the hearing. There is one black child in the Concord Schools when I spoke to them today. So, this is not a holiday for blacks in New Hampshire, this is the holiday for white people. White people that should be encouraged to think about the struggle that those people have gone through for a democracy. I want to end with a quote from Martin Luther King, which said, "I may not reach the

promised land, I'm not going to leave behind a lot of money, I want to leave behind a life of righteousness, this is the righteous thing to do".

SENATOR CHANDLER: Senator McLane, would you believe that I think, if the truth were known about Martin Luther King, that all the states would rescind the holiday?

SENATOR MCLANE: I find it hard to believe that thirty-nine states have passed this and have celebrated this, Massachusetts for twelve years now, and that they would change what they have been enjoying.

SENATOR HEATH: Senator McLane, With some affinity towards the State of Arizona, would you believe that the actual fact of the matter is that Arizona's Legislature failed to pass the law? That the former Governor, who now traipses around the State of New Hampshire running for President, through the executive order that apparently has a great deal of question of whether he has the proper rights to do that and that the present Governor simply eradicated that executive order, but the state had not enacted it?

SENATOR MACLANE: I'm well aware of that. The Arizona House has already passed a Martin Luther King day bill and it is in the Arizona Senate now.

SENATOR WHITE: I rise with regret today to speak against the bill that we have before us. I have regret for several reasons. First of all, I have a niece and a nephew that are black and I think it is regrettable that we say that this is a black versus white bill. But I rise because there are other people that I feel should be honored in a holiday by this State. Senator Disnard stood up and asked about the great emancipator. Basically, if you look at the law that we currently have, Senator Disnard, it is listed as the third Monday in February, known as Washington's Birthday. There is no description of the President's day; it is clearly Washington's Birthday, nothing about Abraham Lincoln. We have in the past, and I think Senator Pressly or Senator McLane said, "this is something for the young people to remember, let's bring the fast day up to current so people would know. As you may recall, one of the items that we had discussed in the past has been to take Fast Day and name it after Christa McAuliffe. I think that there are other things that we could do in regards to what should happen to Fast Day. Unfortunately I disagree with Senator Pressly in the regards to the fiscal impact that is

listed in the fiscal note, because I don't believe there are very many businesses or state offices that are closed on Fast Day. It is a floating holiday in the State of New Hampshire, but I think as far as the rest of the state goes, it is not necessarily observed as a special holiday. So there will be a fiscal impact. We will be passing cost back to the cities and towns. That's probably not a good reason. I didn't want to bring it into the discussion, but it was brought out earlier and I figure that there is a fiscal impact. I don't know what the actual fiscal impact of the bill would be, but I believe that there will be a fiscal impact.

Therefore, as I said, I rise with regret to oppose the committee report.

SENATOR BLAISDELL: Might I ask, first of all, what's the motion on the floor?

CHAIR: The motion is a substitute motion as offered by Senator Pressly as ought to pass.

SENATOR BLAISDELL: I speak to that motion as ought to pass and the reason that I'm doing it is because I have no direct communication from people in my area. The only thing that I did the other day, I went to some of my schools in my area. I was invited to the Cuddler School in Swansey to speak, because they sent me a lot of letters asking me different questions and I ended up at Chesterfield School because of a problem they had with a dump up there and they wanted me to address that. I will address the Cuddler School because I went into the fourth grade and talked to about two classes, as I believe. The first question that was asked of me that day was, "Senator Blaisdell, what do you get for a salary?" I told them and some thought I was overpaid, but they went along with that. The second question was one young little girl asked me, what I was doing about teenage pregnancies? I did my best to get around that in the fourth grade. I had a long dialogue on the Seabrook Nuclear Plant and why it's there. The bottle bill was brought up by the fourth graders. When I got done they asked me to address all of the letters that they had sent to me from Cuddler School in West Swansey, New Hampshire, why there is not a holiday for Martin Luther King? I said, "why isn't there one for the great emancipator, Abraham Lincoln?" Who I think probably was the greatest American who ever lived. When I got all done, they took a vote right there in front of me, that they wanted me as their Senator to come back here in the Senate and vote for Martin Luther King holiday. I said to them, "are



you sure that you're not asking for this because you want another holiday?" They said, "No." In fact, some of them took offense to it. They truly believed it. So, I today will represent, if I may, the Cuddler School in West Swansey, New Hampshire, saying that I will vote along with you Senators McLane, Pressly and others in this room for a holiday for Martin Luther King.

Senator McLane requested roll call.

Senator Blaisdell seconded.

Those in favor: Senators Bond, Hounsell, Hough, Blaisdell, Pressly, Nelson, McLane, St. Jean, Krasker.

Those opposed: Senators Heath, Freese, Dupont, Chandler, Disnard, Roberge, White, Charbonneau, Podles, Johnson, Stephen, Torr, Delahunty, Preston.

9 Yeas

14 Nays

Motion failed.

Question: Inexpedient to Legislate

Adopted.

SB 231-FN, An act relative to manufactured housing zoning. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: SB 231-FN, makes three simple changes in the existing RSA 674. First, it changes the word "area" to "district", because in the zoning ordinances it's not referred to any longer as areas, but as districts. It also changes the word "mobile housing" to "manufactured housing", because this is the more contemporary term. All manufacturing housing isn't mobile housing, but mobile housing is included in manufactured housing. It adds the statement that the placement of this housing may be in most, but not necessarily all, residential districts within the municipality.

#### AMENDMENT TO SB 231-FN

Amend RSA 674:32 as inserted by section 1 of the bill by replacing it with the following:

674:32 [Exclusion of] Manufactured Housing. Municipalities shall afford reasonable opportunities for the siting of manufactured housing and shall not exclude manufactured housing completely from the

municipality by regulation, zoning ordinance or by any other police power. A municipality which adopts land use control measures shall allow, in its sole discretion, manufactured housing to be located on individual lots in most, but not necessarily all, residential [areas] districts within the municipality, or in manufactured housing parks and subdivisions created for the placement of manufactured housing on individually owned lots in most, but not necessarily all, residential districts within the municipality, or in all 3 types of locations. Manufactured housing located on individual lots shall comply with lot size, frontage requirements, space limitation and other reasonable controls that conventional single family housing in the same [area] district must meet.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect July 1, 1988.

Amendment Adopted. Referred to Finance under Rule 24.

SB 235-FN, Relative to municipal and county bonds. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill provides that funding bonds may be authorized by the governing body of the town's, school district and village district. There should be at least one public hearing concerning any proposed refunding bond issued in excess of \$100,000 held before the governing body of such towns, school district or village district. Notice of such hearing must be adequately published prior to such hearing. This bill has the full and complete support of Georgie Thomas, the State Treasurer. It has the support of the Bond Council and it will enable local bodies to basically refinance their bonding to take advantage of better interest rates today.

#### AMENDMENT TO SB 235-FN

Amend RSA 33:3-d, II as inserted by section 1 of the bill by replacing it with the following:

II. Refunding bonds shall be payable in installments [that are neither smaller in amount nor later in time than the installments which are required by law for the bonds being redeemed], the first of which shall be not later than the earliest stated principal maturity date of the bonds being refunded and the last of which shall be not later than the last date on which the bonds being refunded could have been made payable under that law applicable to the bonds being

refunded. The installment payments of refunding bonds shall be arranged in accordance with RSA 33:2 except that any installment that is payable earlier than the date on which the first installment is required to be made payable may be in any amount. The proceeds of refunding bonds, exclusive of any premium and accrued interest and any proceeds used to pay issuing or marketing costs, shall, upon their receipt, be paid immediately to the paying agent for the bonds which are to be called and prepaid; and such paying agent shall hold such proceeds in trust until the bonds are redeemed. While such proceeds are held in trust, they may be invested for the benefit of the municipality or county in obligations issued or guaranteed by the United States of America or by any agency or instrumentality thereof, or as may be provided in any other applicable law of the state of New Hampshire relating to the investment or deposit of municipal or county funds; and the income derived from investment may be expended to pay the principal of and redemption premium, if any, on the refunded bonds and interest thereon until they are redeemed. [Between the authorization of refunding bonds and the use of their proceeds to redeem bonds, such refunding bonds shall not be included in the net indebtedness of the municipality or county for the purpose of determining its borrowing capacity. Upon the use of the proceeds of refunding bonds, the refunding bonds shall be treated as debt of the municipality or county for the purposes and to the same extent as the redeemed bonds were so treated.] Refunding bonds issued in accordance with this section shall be subject to the same statutory limit of indebtedness, if any, as the bonds refunded; provided, however, that upon the issuance of the refunding bonds, the bonds refunded shall no longer be counted in determining any limit of indebtedness of the municipality or county.

Amend the bill by replacing section 2 with the following:

2 Clarifying Refunding Bond Provisions. Amend RSA 6-A:10 to read as follows:

6-A:10 Refunding Bonds. The governor and council may authorize the issuance of refunding bonds in order to pay [the principal of bonds called for redemption, including any premium on such bonds] all or part of any issue of bonds called or to be called for redemption, including any redemption premium thereon, all or part of the interest coming due on or prior to the date of dates on which the refunded bonds are paid, and the costs of issuing and marketing the refunding bonds. The issue of refunding bonds shall be subject to the same requirements and provisions of law as would then be applicable to the issue of the bonds being [redeemed, as far as applicable] re-

funded, except as provided in this section. The proceedings authorizing the issue of refunding bonds shall contain a general description of the bonds which are to be called and shall specify the date on which they are to be redeemed. Refunding bonds shall be payable in installments that are neither smaller in amount nor later in time than the installments in which the principal of the bonds being [redeemed] refunded are payable. The proceeds of refunding bonds, exclusive of any premium and accrued interest, shall be held in a separate fund and in trust until they are applied to [redeem] pay bonds. While such proceeds are held in trust they may be invested in accordance with RSA 6:7 and RSA 6:8 and the income derived from such investment may be expended by the treasurer to pay the principal of, redemption premium if any and interest on the refunded bonds until they are [redeemed] paid. Between the authorization of refunding bonds and the use of their proceeds to [redeem] pay bonds, such refunding bonds shall not be deemed debt of the state in determining its borrowing capacity under any applicable provision of law. Upon the use of the proceeds of refunding bonds, the refunding bonds shall be treated as debt of the state for the purposes and to the same extent as the [redeemed] refunded bonds were so treated.

3 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Referred to Finance under Rule 24.

SJR 1, Against communist tyranny. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: The committee was enormously impressed with the testimony that was given that day with the enthusiasm and the strong heart of the organization that was representing this concept. However, it was the feeling of the committee that because of the openness of the language and lack of definition, inability to distinguish what would be legitimate and what would not, that it was not appropriate for this body to be involved in foreign policy. It was the recommendation of the committee that the people concerned might choose to directly communicate their feelings with the New Hampshire delegation.

Senator Chandler moved to substitute Ought to Pass.

SENATOR CHANDLER: Frequently, I've heard the argument that we should not get involved in foreign policy, but I don't think that is a very good argument because we, as the Senate in its wis-

dom have opinions on a lot of different things. We have an opinion on morality, foreign policy and a lot of other subjects. I think that it is perfectly legitimate and perfectly proper for us to express our opinion. In this case, as a Senate Joint Resolution, introduced by Senator Hounsell and Senator Heath and several House members, against communist tyranny. I don't understand why anybody would be in favor of communist tyranny, especially what they are doing around the world and Afghanistan, Mozambique, Angola. They're trying to subvert the whole continent of Africa. They've got Cuba, Nicaragua and their ultimate goal is to capture and subject the United States with our 200 million people here in this country. Men, women and children would come under the communist yoke. I think that it is certainly our right, our privilege to be able to stand up and be heard and speak against communist tyranny. I think it is perfectly proper for us to address our opinion with a joint resolution. I hope that the Senate in its wisdom will see fit to give this a favorable vote.

SENATOR HOUNSELL: I'm very happy to support the motion that is before this body and I would like to state that as we consider this and consider the argument that we make here that is not our function, that we be aware that the United States Congress is considering this an attempt to evaluate whether or not we should have aid to the contras. It is our duty to protect and to proclaim freedom; it is our duty to help freedom fighters as they attempt to become free. It is very important that we, as an elected body of the State of New Hampshire, give as much support and indication to whoever is listening, be it our own congressional delegation or would-be presidential aspirants, that they would understand that the New Hampshire Senate supports the efforts of those people who are fighting communist oppression. I urge the support of this, a very important resolution, and I feel that we will do a great thing by passing it.

Senator Hounsell requested roll call.  
Senator Chandler seconded.

Those in favor: Senators Bond, Hounsell, Heath, Dupont, Chandler, Disnard, Roberge, White, Nelson, Charbonneau, Podles, Johnson, Stephen, St. Jean, Torr, Delahunty.

Those opposed: Senators Hough, Blaisdell, Pressly, McLane, Preston, Krasker.



Adopted. Ordered to Third Reading.

SB 230-FN, Reinstating the position of sealer of weights and measures in Nashua. Ought to Pass. Pressly Senator for the Committee.

SENATOR PRESSLY: It is a request of the city of Nashua that they be permitted to have their own position of sealer of weights and take this responsibility from the state. They have done this in the past and a couple of years ago, when Manchester requested that the State take over that position, they included Nashua into that. Nashua would prefer, since they do have an employee who does this type of work in related areas to the city. It is the feeling that the consumer of our city will be better served. It basically lets our city provide a service that the state provides to the rest of the state. I would hope that you would concur with the committee's unanimous approval of ought to pass.

Adopted. Ordered to Third Reading.

#### TAKEN FROM THE TABLE

Senator Preston moved to take SB 149 off the table.

Adopted.

SB 149, An act to prohibit regulations which exclude a municipality's fair share of multi-family housing.

SENATOR PRESTON: SB 149 had to do with the multiple housing, which the original bill mandated 10% for multiple housing. Having had the opportunity to review what the amendment does, speaking to various people to see if there was any implied impact if you don't understand. I have no further objections and I would place the motion ought to pass as amended on the floor. I understand that it has no negative implications for the towns whatsoever.

Amendment Adopted. Ordered to Third Reading.

Senator Roberge wished to be recorded as opposed.

#### COMMITTEE REPORTS

SB 191-FN, Relative to physicians and medicaid and medicare fees. Inexpedient to Legislate. Senator Bond for the Committee.

SENATOR BOND: I'm sure that you're all very aware of SB 191. I'm sure that there are none of you that have not heard from some of your prominent constituents on this subject. It's a very well-

intended bill. Unfortunately it's self-defeating, in that it would discourage practice of medicine in the state of New Hampshire on the part of some people who are very devoted practitioners of medicine. It's proven in New Hampshire that the free enterprise system, over the long haul, has a way of finding answers to its problems. I have discussed with the representative of the medical society, the fact that this does represent a problem, which is not well defined by the legislation itself, and they are aware and they are intending to tackle that problem. We urge your support of inexpedient to legislate.

SENATOR ST. JEAN: This is my well-intentioned piece of legislation. I probably got more phone calls from the doctors over the past few days than most of you. I realize that there are a few of them who are still making house calls, but now I realize they make home phone calls and they don't bill me for them. All kidding aside, we had a full day of hearings on this and it was spirited for most of the day. The purpose of this legislation was to get the doctors' attention and it certainly was gotten. It's my sense that there is a problem. As Senator Bond mentioned, the problem is good quality care in the State of New Hampshire for our senior citizens. This may not be the legislation that will work, but I think that we have gotten their attention and they've assured us that they are going to work with us through good medical care. What came about in this hearing was the sense that there are, in fact, some doctors that don't care to treat the elderly in this state because they can't make a buck on them. I think that is wrong. I think that some of those doctors ought to start reading the Hippocratic Oath on a daily basis, because there are a number of them that don't read it and have never read it.

Adopted.

SB 236-FN, Relative to the chief medical examiner and associate chief medical examiner. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: Basically, this takes care of a couple of problems that we currently have in regards to the new position we created last year of Chief Medical Examiner. The bill was put in at the request of the Attorney General's office and the committee had the pleasure of meeting Dr. Fossum, who is the current Medical Examiner. He indicated that they are going to utilize the funds from the police standards and training council for the construction of a Chief Medical Examiner facility on the land adjacent to the present police standards and training council. Since we are no longer allowed to put

footnotes in the capital budget, it is necessary to have this somewhere in the legislation so that we can take care of that. There is no intent at this time to have a position of an Associate Chief Medical Examiner filled, so therefor, there isn't any fiscal impact on this particular piece, but we wanted that in place when we do indeed need that position to fulfill the duties that are inherent of this particular piece of legislation. We recommend ought to pass.

Adopted. Referred to Finance under Rule 24.

SB 196-FN-A, Relative to health hazards in the home. Ought to pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: SB 196 authorizes the Division of Public Health Services to conduct investigations in homes and rentals, if requested by occupants, to identify health hazards. The bill provides the resources to provide assistance and interpret lab data. Since the energy crunch, homes have been better insulated and has cut off the free flow of air and this, coupled with the use of synthetic materials in the home, has led to a number of health concerns that didn't exist before, therefor a need for this bill. Some of them include gasoline contamination, chlordane, formaldehyde, urea foam insulation, and particularly radon, which is discovered to cause lung cancer. Local health officials have requested the legislation because they are unable to do the testing themselves. They just don't have the availability of the equipment, for example, they don't have radon monitors. At the present time, public health services can only respond to about one out of four requests for assistance. So, this legislation will provide for three positions: a person to do testing in homes, a lab person to test for radon in the lab, a part-time secretary and equipment to test for radon and other chemicals. We have made some amendments in the bill to make sure that there wouldn't be confrontations between tenants and owners of the building.

The first one is to make recommendation to the occupant and we have added "and owner," regarding the control of any health hazards discovered, the only change is "and owner".

The second one talks about the request for the examination of the building to take place upon request of the occupant and we've added, "and with notification of the owner".

The third one is upon request of local health officer, the municipal official or state agency and we've added, "with the approval of the occupant and notice to the owner if not the same." We've also added

the words, "and the owner, if not the same," in the reporting section, so that it now reads, "the report prepared pursuant to this section shall be provided to the occupant and the owner, if not the same." We've added a section after written consent of the occupant, "and owner, if not the same." We've added "and owner" in every case.

We've added a section on fees which reads, "the division shall charge fees to recover the cost of sample collection and laboratory analysis. The director may waive all or part of the fees if it is his opinion in the best interest of public health to do so. We've added a section that allows for rule making and we have also eliminated the full-time secretary and provided funding for only 30 hours of part-time secretarial staff. It sounds major, but they were really minor changes and agreed to by everybody.

#### AMENDMENT TO SB 196-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT  
relative to health hazards in the home  
and making an appropriation therefor.

Amend the bill by replacing section 3 with the following:

3 New Chapter; Residential Health. Amend RSA by inserting after chapter 140 the following new chapter:

#### CHAPTER 140-A RESIDENTIAL HEALTH

140-A:1 Purpose. The purpose of this chapter is to protect persons from indoor health hazards and to offer recommendations for the abatement and control of such hazards.

140-A:2 Definitions. In this chapter:

I. "Biological agent" means any organism, such as a virus, rickettsia, bacteria, fungus, protozoa, or helminth, which is capable of producing disease in man.

II. "Chemical agent" means any element, molecule, compound, or mixture to which persons may be exposed through ingestion, inhalation, or absorption which may produce adverse health effects.

III. "Director" means director, division of public health services.

IV. "Division" means division of public health services, department of health and human services.

V. "Dwelling" means an enclosed space wholly or partially used or intended to be used for living, sleeping, cooking, and eating. Manufactured housing as defined in RSA 205-A:1 which is used or intended for use for living, sleeping, cooking, and eating purposes shall be classified as a dwelling. For a dwelling with multiple dwelling units, dwelling shall also mean the areas of the structure available for common use, such as hallways and stairs, laundry facilities, recreational areas, and storage facilities within the enclosed space. This definition shall not include tents, trailers, or other structures used for human shelter which are transportable and which are not attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.

VI. "Dwelling unit" means a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used for living, sleeping, cooking, and eating purposes.

VII. "Health hazard" means a biological, chemical, or physical disease agent, naturally occurring or man-made, which may be present in a dwelling.

VIII. "Multiple dwelling" means a dwelling containing 2 or more dwelling units.

IX. "Occupant" means a person who lives, sleeps, cooks, or eats in a dwelling unit. The term includes renters, lease holders, or owners residing in the dwelling unit.

X. "Owner" means a person who, alone or with others:

(a) Has title to a dwelling or dwelling unit, with or without actual possession.

(b) Has charge, care, or control of a dwelling or dwelling unit, as owner or an agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner.

Amendment Adopted. Referred to Finance under Rule 24

SB 133-FN, Relative to immunizing children. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: SB 133-FN was requested by the Public Health Services of the New Hampshire Department of Health and Human Services. It mandates immunization of children between the ages of two months to eighteen years for certain communicable diseases. It requires proof of immunization before a child is admitted to attend school or day care. An exemption from immunization is provided, should it be detrimental to a child's health and if there is objection based upon religious beliefs. It requires record-keeping and an annual report to the Public Health Division. Under current



New Hampshire Law, only children in the public schools are required to be protected by immunization. Children enrolled in New Hampshire's 122 non-public schools are not required. New Hampshire and Arizona are the only states that omit private school students from these requirements. Since this bill can do nothing but improve the level of health of citizens throughout New Hampshire, the committee recommends ought to pass.

SENATOR BOND: I rise in opposition to the committee report ought to pass. This is a major policy change to the state of New Hampshire. In the past, immunizations have been required by the public schools and public schools have overseen those and kept the records. This now would expand that to all children going into private schools and day care. The fiscal note on the back, you'll notice, says that it won't cost anything. When you've got a bureaucracy that's building a whole new layer, I defy you to find a way that it isn't going to cost something. There will be a supplementary budget request in here in 1988, to fund a new division that will be overseeing an immunization program which I have heard no testimony is required. I would strongly urge that you vote no on the motion ought to pass.

SENATOR HOUNSELL: Senator Podles, was there any numbers given or any instances of people who are attending non-public schools, as far as, how many children are not being immunized?

SENATOR PODLES: Yes, I did state in my report, that there are 122 non-public schools. Also Senator Hounsell, I would like to add that the reason for this legislation is that there was a significant outbreak of whooping coughs occurred between June 1 and October 17, of 1985 in Keene, Cheshire County area and the outbreak consisted of forty-eight cases among 107 enrolled students at a private school in Keene. The outbreak caused much disruption and absenteeism. Also, a limited outbreak of measles occurred during June and July of 1986 in the Bedford, Manchester public schools. In total there were forty-three cases and mostly among students between eleven and fourteen years of age. The students involved were enrolled at Memorial and the Kellogg Schools in Bedford and South Side Junior High in Manchester. In this outbreak the cases of measles occurred in the highly vaccinated school age population and this is the reason for this bill.

SENATOR HOUNSELL: In the case of the Manchester outbreak, wasn't the immunization that had taken place as early as elementary?

SENATOR PODLES: Yes, in the ages of eleven to fourteen years of age. The others in Keene area, were the 107 enrolled in private schools.

SENATOR HOUNSELL: In any of these out breaks that you referred to, has anyone died?

SENATOR PODLES: I wouldn't know about that. But there is an exemption in this bill, should it be detrimental to a child's health. They can get an exemption or if there is some objection to their religious belief, they also get an exemption, so you really don't have to go along with this.

SENATOR HOUNSELL: Is there a parental consent provision?

SENATOR PODLES: I would say yes, this is a serious thing.

SENATOR HOUNSELL: I rise in opposition of this bill. I do so, understanding that Senator Podles has a long respected history of caring for the health of the citizens of the state, especially when it comes to the children. I don't stand up here not recognizing her work. But I think we have an issue here that needs considerable more thought, at least in my own mind, because I've seen an expansion of the state into the areas of family rights, parental rights and religious rights and I'm very nervous about this bill at this time. I would ask that we vote this bill inexpedient to legislate and I would like to make a motion at a future time.

SENATOR DISNARD: In past experiences I know this is needed and I ask to support the motion that's on the floor.

SENATOR KRASKER: It is an expansion of the number of children that are going to be covered by immunization. At the present time, public school children are covered, private school children are not. That's why it is being transferred to Public Health Services. Right now local school boards handle it only for children in the public schools. The testimony we were given by doctors and others in the health field indicates that immunization is very, very important. If it is important for some children, then it's important for all children. As Senator Podles has said, there are exemptions, if anything that is going to be detrimental to a child's health or if a parent has an objection on a religious or a personal objection, there are exemptions granted. It's not an extension of power above what is able to be done at the present time. It is just an inclusion of more children.

Senator Hounsell moved to substitute Interim Study.

SENATOR HOUNSELL: I would like to again state that I certainly can understand the concern for the health of these children. But considering that it is not necessary for the state to be expected to protect the citizens at all time. There are some opportunities, I think in this instance, for the people of this state to immunize their children. I think that that is crucial to what we have and the form of government that we have. If it is in this country to remember that, the people should provide for the government and that the government should not necessarily provide for the people. We are talking about something that has a lot more implication then just immunization of children, which any of us would support on the surface and I'm sure most of us do support. But we are talking about the state intruding upon those decisions that are made of the family. I would hope that we would be able to recognize this, and also, that we might realize that this question on this bill is that, it could shift the liability from the parent to the state. I would just ask that we could move this issue to interim study and consider it a little bit longer.

SENATOR PODLES: Senator Hounsell, would you believe that at the present time, the state is only concerned about the health of the children in the public schools. What about the children in the private schools? They are not concerned about those children?

SENATOR HOUNSELL: Senator Podles, I am convinced that you are concerned about the health of the children. I think that that is commendable. But I also think that you may not see the real concern that I have given and that is, the state stepping in to take the responsibility away from the parent to immunize those children.

SENATOR PODLES: Would you believe that this is long overdue?

SENATOR HOUNSELL: I would believe that the vigilant support of the liberties of the people of this country is ongoing.

SENATOR WHITE: I rise in support of the pending motion. There were two of us that had concerns in the committee. Senator Bond has already expressed his concern and I had concerns of the ramifications as Senator Hounsell has so eloquently just alluded to. We could be forming a great bureaucracy here and what are the costs down the road? Granted, it said that there is no fiscal impact at this time, but what are we creating? We have had many, many bills come before this committee from the Public Health Center of the State Government and they admitted during one of the bills that yes indeed they were running out of space in the building that they have.

If we continue to put additional burdens on Public Health, we are going to be looking at new building spaces. I think we are far exceeding the scope of State Government responsibility.

SENATOR DUPONT: Senator Podles, I have a question. I guess it reminds me of my wife coming to me yesterday and said to me that the child had to be vaccinated and I just assumed that you have kids immunized against diseases. Is there really that many children out there that don't have any immunization against the various things that we are talking about?

SENATOR PODLES: A lot of children in the private schools don't. It is not required. There is about 102.

SENATOR DUPONT: Is it enough to warrant the fact that we have reporting procedures in all schools and that we have to go through this whole process to see that they all get immunized?

SENATOR PODLES: Well, I think that's important to have reports like that about children and about communicable diseases. That's very important. Everybody wants to know when there is an outbreak somewhere. Parents are concerned and this is the concerned area.

SENATOR DUPONT: The number of children that you have identified are the ones we are concerned about?

SENATOR PODLES: I have not identified. These are statistics that come from the Division of Public Health.

SENATOR DUPONT: What is the number of kids that haven't been immunized?

SENATOR PODLES: I will give that to you in a minute.

SENATOR MCLANE: Senator Podles, if a young person came from another country and hadn't had a polio shot or hadn't had a whooping cough shot, is it true that now they can just go into that institution and be there without having to have any of these shots?

SENATOR PODLES: Yes, that is a fact.

SENATOR MCLANE: Don't you think that this is a really important Public Health measure for our own kids?

SENATOR PODLES: I think it is a very important bill for parents and I think that there are a lot of parents that would like to have this bill to protect their children that have been immunized.

SENATOR WHITE: Senator Podles, wouldn't you agree that perhaps this could be sent down by rules and regulations of the Department of Education, and then it wouldn't be something that we mandate and might in the long run have to pay for? That probably is the reason that Senator Hounsell has suggested interim study, so that we can look at it and find an alternative method to setting up this huge bureaucracy in the Department of Public Health?

SENATOR PODLES: Senator White, I think it is worth paying not to have polio and not have the children exposed to polio.

Senator Hounsell requested roll call.  
Senator Blaisdell seconded.

Those in favor: Senators Bond, Hounsell, Heath, White, Charbonneau, Johnson, Torr, Delahunty.

Those opposed: Senators Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, Pressly, Nelson, McLane, Podles, Stephen, St. Jean, Preston, Krasker.

8 Yeas

14 Nays

Motion Lost.

Question: Ought to Pass

Adopted. Ordered to Third Reading.

SB 81-FN-A, To increase the shelter allowance for aid to families with dependent children, and making an appropriation therefor. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: When we studied the AFDC allotment last year, it was studied in the House and in the Senate and, it was our decision that the most efficiently cost effective way to help the 4,000 welfare mothers is to increase their shelter allowance. That way the Federal Government pays half and the money only goes to those women who are actually paying rent. The reason that this is \$304, is that this is the actual average paid out now by welfare mothers living with two to four to six kids, in what we might perhaps say was substandard housing, but at least there is a roof over their heads.



There is a package coming through from the other side called the equal opportunity bill which addresses the dental needs of welfare mothers and addresses also a way to encourage them to go back to work.

I would ask that this basic allowance for a roof over their heads for the 16,000 children on AFDC be passed by you today and sent to Finance.

SENATOR JOHNSON: Senator McLane, how many AFDC families do we have now?

SENATOR MCLANE: Just a little over 4,000 mothers and that translates into, I think, 16,023 kids.

SENATOR JOHNSON: Is that figure stable, rising or decreasing?

SENATOR MCLANE: It's been decreasing. It was 8,000 parents seven years ago.

SENATOR CHANDLER: This bill is what I call, a bleeding heart bill or a do gooder bill. It will cost the State of New Hampshire about 4 million dollars more per year. I know there are homeless people in the state. There are street people in the state, some of them are sleeping in doorways or on sidewalks, but I have not known personally or seen any families with children that are sleeping out on the sidewalk. They must be living and sleeping somewhere. The monthly allowance being raised here, up to \$304 a month for shelter is, about double the amount they are getting now. I rent out a couple of apartments in Warner, the rent on one of them is \$150 a month and is a fairly good size apartment, the other one is \$87 a month and about the same size. I think that \$304 a month is an excessive amount. There must be apartments available in the State of New Hampshire that are a considerable less amount than that. I realize this bill will be voted to Senate Finance and they can give it the proper consideration, but I do feel that this is giving the AFDC mother's too big an increase.

SENATOR ST. JEAN: Senator Chandler, would you believe that I could show you people in my district, women and families, that are living in cars as we speak?

SENATOR CHANDLER: I would believe it, if you say so.

SENATOR ST. JEAN: Would you believe, Senator, the reason they are doing that, is that, they can't afford at the present time, to find a suitable apartment in the city of Manchester?

SENATOR CHANDLER: Senator, they might as well get out of Manchester and come to Warner.

SENATOR MCLANE: I wanted to be very sure that you understood that this is one of the reasons that we are putting up the shelter allowance, is because if someone is renting your apartment for \$150 a month, that's all they would get is \$150 a month. This isn't giving everyone \$304, no matter what they pay for rent. It is giving them only what they pay for rent under \$304.

SENATOR CHANDLER: My tenants are not getting anything. They are paying the rent themselves.

SENATOR WHITE: I rise in opposition to the bill before us for a couple of reasons. First of all, we all say let's try and make annual sessions work. I think if we continue to put a bill into the House and Senate and another package coming through and items in the budget, we are not going to make annual sessions work. There is a bill that has already passed the House at the level of \$228. I don't remember the exact number of the bill. So why do we have to continually have more than one vehicle addressing the same problem?

Another item that I think should be pointed out to you is, currently the housing allowance is \$144 and this would raise that to \$304 or a difference of \$160 and that the AFDC lenders loose one dollar for every three they gain. People have said, "well I think that's a pretty good deal," but in essence, I fear that the landlords in time would raise some of their rents and the AFDC mothers would be losing 53 and one-third dollars from their monthly stipends due to this bill. There is other legislation coming over. I would like to see the entire package that is coming over rather than just work on this particular bill at this time. I don't think that it is fair to Finance and I don't think it is fair to the Senate to have the same hearing on the same bill and that's why I oppose it.

SENATOR BOND: I rise in support of the committee report ought to pass. As Senator McLane pointed out in the answer to the question, \$304 is the maximum. If there are, in fact, less expensive living quarters, then that is the maximum that is available. This figure hasn't been adjusted for some seven or eight years and the cost of housing in State of New Hampshire, as you know, we dealt last year with a bill which allows housing finance to use state property to build housing for people like municipal employees who don't get paid enough to live in the housing that we now have on the market, par-

ticularly in the southern part of the state. This is not money that is available to spend on cigarettes, beer, potato chips or coke. It is money that goes for the housing and does not make available that money to them to spend in markets. In fact, it does reduce their food stamps eligibility. It does not put disposable income in their hands. Senator White is right about the bills coming from the other side, but I don't think that should affect the kinds of decisions that we make. We were told when the Governor presented his budget, that the \$14 million were for legislative specials. If we have to spend \$8 million of it on this, I would rather spend it on this than \$50 here and \$100,000 there on a whole lot of other little projects. This is a question that has got to be addressed. We have a certain obligation which we accepted a long time ago in statute, and I think we should fund it adequately.

SENATOR CHANDLER: Senator Bond, from what I gathered from your remarks is that, this money is really going to go to the landlord?

SENATOR BOND: It goes to the landlord for rent, not to the AFDC person or disposed of.

SENATOR CHANDLER: Up in the north country where you come from, aren't there any rents that are less than \$300 a month?

SENATOR BOND: Yes. If the recipient can find a rent for less, then he/she gets less.

SENATOR BLAISDELL: I'm going to rise in support of Senator McLane's report. I will not address the figure that is in the bill, I think that is something that you and I will be debating on this floor for the next couple of months and also in Finance. This is not a do gooder bill; it's not a bleeding heart bill. I think this is a bill that shows just a little bit of compassion. Very often in this Senate and maybe across the hall, we talk about the women on AFDC, you very seldom ever hear somebody stand up and say "what about the kids?" I question you on this, Senator Chandler, is it wrong to get up and stand up for those kids, so that they can have just a little bit better place in life? Is it wrong to see that those young kids have a better place to stay, a little bit more food and a little bit more clothing to keep themselves warm, so that eventually they will get off that AFDC? There are many things coming down the line that I think are important. Senator McLane and I, along with others in this Senate and members of the House and Governor's staff, sat all summer long

on a children and poverty committee and I hope you are ready. Because what it means and what it told us was that to get off welfare today and to get off AFDC, that woman has got to find a job for around \$7.50 an hour. Now you can believe that because it was researched by all factors. We tried very hard to come up, and Senator McLane mentioned it about the equal opportunity act, to give these woman on AFDC a chance to be on AFDC but yet give them a chance out in the public sector so that they could go out and get a little bit of work, so they can do something for the rest of their lives. To train them, that's what you look at in this and I think it is compassion, I don't think it is what Senator Chandler said, it's not a do gooder bill. As Senator Preston said when I was nominated for the Senate Presidency, "nobody ever knows what the people do in this room" and I don't think anybody wants to know. I don't care as long as I can stand up on the floor of this Senate to tell you people that this is what is needed in the State of New Hampshire. Get that woman off of welfare and give her a chance at life and then maybe those kids will have a better shot at life, to come up and do what you and I have done. I am not ashamed to admit it, I come from welfare, you people know it. I was on it when I was a kid and I know what it is to be cold, hungry and not to have clothes to go school and holes in your boots, I know that. But I paid something back to my city and my area to this date by coming here and trying to do the things that I think are right. I think that this is one area that you can stand up and be counted. You are Senators and you represent the people, so for God's sake represent those kids because they mean so much to me. I know, Senator White, you can wave your hand at me and say anything you want. But let me tell you, those kids are the future of this state and that's an investment that you make. They're the greatest natural resource that you have got here. So for God's sake help them, so that they can come and be Senators like you and be proud to live in this state.

SENATOR JOHNSON: Senator Blaisdell's remarks just literally caused me to choke up a couple of moments ago and frankly, I'm recovering from that. He reminded me that my family, in the early 30's, was in the same situation, except it wasn't called "welfare" then it was called "relief". Being a member of the Public Affairs Committee, we have heard the testimony about the need for additional housing and we are primarily talking about affordable housing in New Hampshire. We have heard today, arguments in favor of legislation that would really produce or have the effect of producing unwanted children in our society. I find it strange that the person who is one of the most strident proponents of some of the bills that I am talking

about, is now the most strident opponent of legislation that would presumably provide a decent shelter for the varied children that do exist in our society today. I don't know what the amount should be, I'm not prepared to discuss that today. But I am prepared to say that I share the concern for adequate housing for people who presumably are in this status, not because they want to be, but for other reasons.

SENATOR HEATH: At the risk of loosing my reputation as a hard-hearted conservative, I'm going to agree with this legislation. I'll tell you one thing that brings me to that point. Just before Christmas as the school was breaking up for Christmas vacation, my wife received word that one of her students was living in an automobile with her parents, in fact, they were living on Route 93 in a rest stop where they could go in and get warm and use the facilities. These two people were working just before Christmas and both of them were working at a very low end of the scale. They weren't married which causes some problems in terms of trying to find some aid and security for them later on. I don't know that now they are that secure. I was extremely frustrated and I want to leave this message if anybody in the Health and Welfare system in this State is listening. It is impossible on weekends and holidays and the rest of the time it's difficult to get any help to the people who are in dire or immediate need. Nonetheless, these people were laid off during the Christmas season where they were working. They were attempting to struggle above, but they were not able to. I would hope that at the same time we added to this, that we also build in something, because poverty is very often accompanied with ignorance and ignorance doesn't permit people to know how to get into the system when they really need it. I can tell you from personal experience, that there are times when trying to help people, that the system doesn't work and isn't worth a damn in terms of trying to get the system to the people who really need it and get some immediate action. You get a whole bunch of run around. Even if you are a State Senator, you can't penetrate. I don't know who is getting the money, but some of the people who really need it are not getting it and I would hope that at the same time that we do this, that they make some reforms in the system so that some of these people who are really needy can get hold of the system when they need it.

#### AMENDMENT TO SB 81-FN-A

Amend the bill by deleting section 1 and renumbering section 2 and 3 to read as sections 1 and 2, respectively.



Amendment Adopted. Referred to Finance under Rule 24

TAKEN FROM THE TABLE

Senator Preston moved HB 138-FN be removed from the table.

HB 138-FN, Relative to sunset review of the department of safety-division of motor vehicles.

Adopted

SENATOR PRESTON: I would like to move ought to pass on HB 138-FN.

Question: Ordered to Third Reading.

Adopted.

Senator Preston moved HB 169-FN be removed from the table.

HB 169-FN, Relative to sunset review of Maine-New Hampshire interstate bridge authority.

Adopted.

SENATOR PRESTON: I would like to move ought to pass for HB 169-FN.

Question: Ordered to Third Reading.

Adopted.

SUSPENSION OF THE RULES

Senator White moved that the Rules of the Senate be suspended to allow the introduction of a committee report not previously listed in the calendar.

SENATOR WHITE: In regards to SB 141, I would like that bill to be passed out at the present time. The reason I would like this on today, is so that we can get it over to the House, so that they will have to act on it this year. I'm sorry to bring it in on this late date, but we just had the hearing on it this morning and that's why it is before you at this late hour. The committee report is ought to pass as amended.

Adopted.

## COMMITTEE REPORT

SB 141, Naming the interstate bridge between New Hampshire and Maine the Sarah M. Long Bridge. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: We have been trying in the last few minutes to track down the amendment. It was picked up at 1:00 p.m. from legislative services and we cannot find it. What it does is, it changes it from the "Sarah M. Long Bridge" to the "Sarah Mildred Long Bridge", because as she is mostly known in the Portsmouth area, she is known as Mildred and very few people even knew that her name was Sarah. So, we felt that it was important to put her entire name as Sarah Mildred Long. I put this bill in as a request of Counselor Griffen, who had tried to get it into the last session, but we had great difficulty with the House in accepting that amendment when we were doing the interstate bridge authority. She did ask that I put the bill in at this time. Regrettably, it was put in towards the twenty-third hour and Senator Krasker did not have a chance to go on as a co-sponsor. However, she had made her intentions known, it was left open, but the time ran out. We had Robert Hogan from the Department of Transportation in supporting the bill, Counselor Griffen came in and explained in great detail of the work that Mildred Long has done in regards to the Interstate Bridge. She was their first employee back in 1938 and she remained a steady and steadfast employee until April of 1984, when she retired. When she first went in as their secretary, she brought all her own equipment. She brought her card table, typewriter and everything else that she needed to run the office and has done it ever since. The other reason that we would like to have this bill expedited is because we are working with Maine Senator Estes of Kittery Point and we want to make sure that the bill is the same in both states. That's why we want to get it out today, so they will know the New Hampshire version of the Bridge.

SENATOR KRASKER: I would ask the members of the Senate to please pass this legislation, so that we can honor a very great lady during her lifetime. It's so often that it happens after someone has died and we would like to be able to honor Mrs. Long while she is alive and knows it.

## Floor Amendment to SB 141

Amend the title of the bill by replacing it with the following:

## AN ACT

naming the interstate bridge between New Hampshire  
and Maine the Sarah Mildred Long Bridge.

Amend the bill by replacing section 1 with the following:

1 Sarah Mildred Long Bridge. Pursuant to RSA 4:43, the interstate toll bridge over the Piscataqua River between the city of Portsmouth in New Hampshire and the town of Kittery in Maine is hereby named the Sarah Mildred Long Bridge.

Amendment Adopted. Ordered to Third Reading.

Senator Blaisdell moved reference to Finance of SB 235-FN be waived .

Adopted. Ordered to Third Reading.

## RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, March 19th at 12:30 p.m.

Adopted.

## LATE SESSION

Third Reading and Final Passage

SB 199, Relative to Branch Banking.

SB 172-FN, Regulating the taking of certain wildflowers and plants in New Hampshire.

SB 85-FN, Establishing a special environmental court within the Manchester district court.

SB 228, Relative to disobeying a law enforcement officer.

SB 109, Expanding the prohibition on possession of dangerous weapons by felons.

SB 149, To prohibit regulations which exclude a municipality's fair share of multi-family housing.

SB 127, Regulating abortions.

SB 124-FN, Prohibiting abortions performed on certain minors without parental consent.

SB 158, Relative to limitations of prosecutions of sexual assault offenses.

SB 26, Prohibiting homosexuals from adopting, being foster parents, or running day care centers.

SB 64, An act legalizing the New London-Springfield water system precinct meeting of March 18, 1986.

SJR 1, A Senate Joint Resolution against communist tyranny.

SB 230-FN, An act reinstating the position of sealer of weights and measures in Nashua.

SB 133-FN, Relative to immunizing children.

HB 138-FN, Relative to sunset review of the department of safety-division of motor vehicles.

HB 169-FN, Relative to sunset review of Maine-New Hampshire interstate bridge authority.

SB 141, An act naming the interstate bridge between New Hampshire and Maine the Sarah Mildred Long Bridge.

SB 235-FN, An act relative to municipal and county bonds.

Adopted

## RECONSIDERATION

Senator Hounsell moved reconsideration on SB 129, An act relative to the establishment of inclusionary zoning.

Motion lost.

Senator Blaisdell moved adjournment.

Adopted.

Adjourned.

*Thursday, March 19, 1987*

Senate met at 12:30 p.m.

Senator Freese in the chair.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, it is good for us to be here-after being lifted up by the gaities the color and the Spirit of Congeniality which dominated the celebration of St. Patrick's Day! May that self same spirit be with us as we wrestle with those problems which confront us! Help Us Lord.

Amen.

Senator McLane led the Pledge of Allegiance.

#### INTRODUCTION OF GUESTS

#### HOUSE MESSAGE

#### INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 213 through HB 706-FN, CACR 4, HCR 3, 4 and 5 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

HB 213, Relative to guardians for minors and the correction of statutory references for certain appeals. (Public Institutions Health and Human Services)

HB 422-FN, Creating a committee to study and revise the laws pertaining to elderly persons. (Public Institutions Health and Human Services)



HB 699-FN, Establishing a task force to study support services for families with developmentally disabled children. (Public Institutions Health and Human Services)

HB 709-FN, Relative to children's interagency dispute resolution. (Internal Affairs)

HB 418, Relative to mutual holding companies. (Banks)

HB 446, Relative to the registration of partnerships and corporations. (Interstate Cooperation)

HB 474-FN, Relative to solicitations for charitable purposes. (Judiciary)

HB 515, Relative to liens in favor of home health care providers. (Ways and Means)

HB 518, Relative to enforcement of the underground utility damage prevention system. (Interstate Cooperation)

HB 152-FN, Relative to sunset review of the board of education - administration support. (Education)

HB 153-FN, Relative to sunset review of the board of education - financial aids. (Education)

HB 154-FN, Relative to sunset review of the board of education - special services. (Education)

HB 158-FN, Relative to sunset review of the department of education - adult basic education. (Education)

HB 114-FN, Relative to sunset review of dental board and relative to continuing education and confidentiality of certain hearings by the dental board. (Executive Departments)

HB 117-FN, Relative to sunset review of board of medicine. (Executive Departments)

HB 122-FN, Relative to sunset review of board of psychologists. (Executive Departments)

HB 633-FN, Relative to unlicensed funeral home employees and funeral home inspections. (Executive Departments)

HB 503, Relative to regulation of existing weirs. (Development, Recreation and Environment)

HB 264, Relative to the composition of the court accreditation commission. (Judiciary)

HB 425-FN, Relative to the powers of the adult parole board and credits for good conduct. (Judiciary)

HB 579-FN, Relative to combining the Peterborough and Jaffrey district courts and providing for the tenure of justices when judicial districts are combined. (Judiciary)

HB 584-FN, Relative to the special justice of the Pelham municipal court. (Judiciary)

HB 605-FN, Relative to the terms of persons committed to jails or houses of correction in default of payment of fines. (Judiciary)

HB 695-FN, Relative to committal orders for persons found not guilty by reason of insanity. (Judiciary)

HB 227, Requiring notification of late payments by subcontractors to unions (Internal Affairs)

HB 406, Relative to the priority of unpaid employee wages in insolvency proceedings. (Internal Affairs)

HB 101-FN, Relative to sunset review of the joint legislative committee on review of agencies and programs and relative to the legislative program review process. (Executive Departments)

HB 102-FN, Relative to sunset review of office of legislative services. (Executive Departments)

HB 62, Relative to establishing salaries of county officers. (Public Affairs)

HB 540-FN, Relative to bingo and lucky 7 licenses. (Ways and Means)

HB 420, Restricting power boats on Hermit Lake in the town of Sanbornton and requiring the division of safety services to make a study and hold a hearing relative to boating on Lake Pemigewasset in the towns of New Hampton and Meredith. (Development, Recreation and Environment)

HB 421, Permitting the appointment of alternate members to conservation commissions, and clarifying the authority of conservation commissions to spend funds appropriated to them. (Development, Recreation and Environment)

HB 275-FN, Establishing a public investments study committee. (Ways and Means)

HB 431, Relative to treasury deposits. (Ways and Means)

HB 426, Allowing the rendition pursuant to the Interstate Compact on Juveniles of a juvenile charged with delinquency. (Interstate Cooperation)

HB 229, Relative to the exemption of skeet, trap, shooting sports clubs and owners of shooting ranges from any civil or criminal actions relating to noise pollution. (Insurance)

HB 565-FN, Relative to off highway recreational vehicles. (Transportation)

HB 36, Relative to alimony and property settlements and fault grounds in divorce. (Judiciary)

HB 454, Relative to proof of exceptions. (Judiciary)

HB 165-FN, Relative to sunset review of the department of employment security and relative to appellate procedure in such departments. (Insurance)

HB 644, Relative to zoning exemptions for certain utility structures. (Public Affairs)

HB 408-FN, Relative to establishing a uniform fine schedule for boating violations. (Development, Recreation and Environment)

HB 479, Relative to delaying condominium conversions following certain rental increases. (Interstate Cooperation)

HB 383-FN, Relative to road tolls. (Transportation)

HB 30-FN-A, Relative to uniform allowance for newly commissioned second lieutenants and warrant officers in the New Hampshire National Guard and making an appropriation therefor. (Internal Affairs)

HB 37, Relative to the emergency management act. (Interstate Cooperation)

HB 366-FN-A, Making supplemental appropriations to the University of New Hampshire cooperative extension service and to the board of veterinary medical examiners. (Education)

HB 466-FN, Prohibiting any town or school district from holding an election on the day state elections are held. (Public Affairs)

HB 113-FN, Establishing a civil air patrol grant program. (Executive Departments)

HB 623, Relative to the practice of physical therapy. (Executive Departments)

HB 703-FN, Relative to the board of auctioneers. (Internal Affairs)

HB 626-FN, Relative to medication specialists. (Public Institutions, Health and Human Services)

HB 662-FN, Relative to reimbursement of the state for patients rendered services by the secure psychiatric unit. (Ways and Means)

HB 726, Relative to the qualifications of the director of human services and establishing certain positions. (Public Institution, Health and Human Services)

HB 554-FN, To revise municipal tax sale practices. (Internal Affairs)

HB 589-FN, Relative to adjusted elderly exemptions. (Public Affairs)

HB 276-FN-A, Relative to the rate of the real estate transfer tax. (Ways and Means)

HB 363-FN-A, Relative to estimated tax filing requirements under the bank, franchise, and interest and dividends taxes and creating a division of automated information systems in the department of revenue administration. (Ways and Means)

HB 75-FN-A, Relative to registration fees for pesticide products. (Development, Recreation and Environment)

HB 79-A, Making a capital appropriation for Tip Top House. (Capital Budget)

HB 83-A, Relative to the Cornish-Windsor bridge and making an appropriation therefor. (Capital Budget)

HB 97-FN-A, Appropriating funds to the department of agriculture for inspection of apiaries. (Journal)

HB 135-FN, Relative to sunset review of the public utilities commission - administration and support. (Executive Departments)

HB 193-FN-A, Relative to liquor store relocation and making an appropriation therefor. (Ways and Means)

HB 244-FN-A, Establishing a study committee to review existing fire laws. (Interstate Cooperation)

HB 371-FN-A, Relative to the compromise of an action against the state and making an appropriation therefor. (Finance)

HB 377, To liquidate encumbrances and lapse available balances on certain capital accounts. (Capital Budget)

HB 591-FN, Relative to the retention of state election ballots. (Executive Departments)

HB 163-FN, Relative to sunset review of the boxing and wrestling commission. (Executive Departments)

HB 488, Relative to the department of revenue administration. (Executive Departments)

HB 657-FN, Relative to the investment of state trust funds. (Ways and Means)

HB 725-FN, Relative to the attorney general. (Internal Affairs)

HB 442, Extending certain temporary rulemaking authority of the commissioner of labor. (Executive Departments)

HB 416, Concerning the presumption of procedural compliance in the enactment of municipal legislation. (Judiciary)

HB 433, Relative to the termination of county employees. (Interstate Cooperation)

HB 480, Recodifying the county corrections laws. (Interstate Cooperation)

HB 482, Relative to the charter of Wentworth-Douglass Hospital. (Internal Affairs)

HB 597-FN, Relative to the residency requirement for the elderly expanded elderly, and adjusted elderly property tax exemptions. (Public Affairs)



HB 717, Relative to membership on planning boards. (Public Affairs)

HB 493-FN, Establishing a committee to study the potential development of a state park in the Kona Wildlife Area in Moultonboro. (Development, Recreation and Environment)

HB 668-FN, Relative to the tax exemption for qualifying small power production facilities and qualifying cogeneration facilities. (Interstate Cooperation)

HB 704-FN, Relative to the safety of facilities gathering, transmitting and distributing petroleum gas. (Internal Affairs)

HB 231-FN, Relative to updating master plans once every 5 years. (Public Affairs)

HB 561-FN, Relative to provision of water supplies to victims of water supply contamination, reimbursement of the oil pollution control fund, and licensing of oil transporters. (Development, Recreation and Environment)

HB 195, Prohibiting the taking of private property by eminent domain for the siting of a nuclear power plant or a low-level radioactive waste disposal facility. (Internal Affairs).

HB 568-FN, Prohibiting the transportation, production, burial and storage of high-level radioactive material in the state of New Hampshire. ( Development, Recreation and Environment)

HB 707, Relative to the implementation of public utility rate schedules under bond. (Internal Affairs).

HB 258-FN, Relative to limitations on liability. (Insurance)

HB 528, Instituting a confidential system to protect engineers reporting construction safety violations. (Insurance)

HB 571-FN, Relative to the certification and financial management of life care facilities. (Insurance)

HB 599, Relative to submetering by master metered utility customers. (Interstate Cooperation)

HB 397, Changing the time for counting absentee ballots and requiring the posting of the time for commencement of counting absentee ballots. (Public Affairs)

HB 500, To revive the charter of the First Church (Congregational) in Jaffrey. (Public Affairs)

HB 522, Relative to membership on the state party convention. (Internal Affairs)

HB 701-FN, Relative to the fee charged for copies of checklist. (Public Affairs)

HB 391, Creating a division of agricultural development in the department of agriculture using currently available funding and personnel. (Executive Departments)

HB 291, Relative to cosmetology. (Public Institutions, Health and Human Services)

HB 435-FN, Creating a committee to study head injuries in New Hampshire. (Public Institutions, Health and Human Services)

HB 541-FN, Relative to developmentally disabled persons. (Public Institutions, Health and Human Services)

HB 545, Establishing a task force on homelessness. (Public Institutions, Health and Human Services)

HB 407-FN, Amending the way in which the town of Londonderry shall collect its taxes for fiscal years 1987-1994. (Public Affairs)

HB 497, Establishing a committee to study granting municipalities the option of setting their own tax rates. (Public Affairs)

HB 595, Changing the time and place for holding the first meeting of county conventions. (Public Affairs)

HB 663-FN, Legalizing action by the city of Franklin in adopting a budget and supplemental budget for an optional fiscal year and authorizing debt during the transition period. (Public Affairs)

HB 706-FN, Increasing the per diem allowance for county delegation meetings. (Public Affairs)

CACR 4, Relative to the amount in controversy required for a jury trial. Providing that the amount shall exceed \$1,500. (Judiciary)

HCR 3, Relative to accidents involving nuclear power plants. (Insurance)

HCR 4, Relative to a National Housing Partnership Act. (Judiciary)

HCR 5, Supporting initiatives at all levels seeking to solve the potentially catastrophic problem of depletion of the earth's ozone layer. (Development, Recreation and Environment)

### HOUSE CONCURS WITH SENATE AMENDMENTS

HB 109-FN, Relative to sunset review of coordinator of highway safety.

HCR 10, Adopting Joint Rules for the 1987-1988 session.

### COMMITTEE REPORTS

SB 38, Relative to Rust Pond in the town of Wolfeboro. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill is relative to the Rust Pond in the town of Wolfeboro and was placed in the position in our report of inexpedient because we were waiting on some information from officials of the town that didn't come. We felt that if that information did come, that there would be a vehicle of a germane bill from the House side. We could deal with that, so we urge inexpedient.

Adopted.

SB 162, Establishing the New Hampshire ski area commission. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: I would ask that you would turn to the amendment that appears on page 15 of your calendar. I'm going to attempt to tell you about a need, a need that I think in the last few days has been clouded with some misinformation as to the intent of what this bill does. We are currently operating two state operated ski areas. Currently, there are only three ski areas in the country that remain operated by the state. One's in New York, and two are in New Hampshire. There has been a move over the last twenty years to cease state operated ski areas, to establish either a lease agreement or to set up an authority which allows for ski areas to be run for the purpose of generating revenue. Now I say that because our current RSA 216:A clearly says and dictates to the department of resources and economic development that they are to develop and run the ski areas as to "optimum capacity for skiing and other income producing potential". The understanding of most everyone that I've talked to about this is that the purpose of the ski area to be

in business is to generate revenue. The purpose of state government is not to subsidize a ski industry or to provide for skiing for its constituency, but to enhance an already existing industry and to be involved in such a way that it does truly enhance. I want to read to you a quote from a testimony that was received by a member of the Governor's Ski Advisory Committee, a committee that I've served on the last two years. "The private ski industry of New Hampshire, New England and nationally welcomes and wants a healthy viable Cannon and Sunapee. But they can", they being Cannon and Sunapee, "they can and should carry their own financial weight. We do not see any reason to justify a competitive ski area that 1) has to continue to be subsidized either in operating or capital cost over a long period time into the future from the general state funds and 2) offers a lesser quality or lesser state of the arts skiing opportunity for the skiing public which has come to recognize New Hampshire as one of the leading ski states". That is the focus of this bill.

We are currently running two ski areas that, over a five year period ending in 1985 lost this state 2.6 million dollars. I have to ask you, do you believe that that's the function of government? That we should provide skiing at the cost of other programs, at the cost of the general fund? In 1985 there was a sunset report that addressed this. It's a very good and involved report. In 1985 when I came here as a freshman interested in this, I happened to read in detail and conversed in detail with people regarding this report. There's 27 pages and it's an excellent report. I introduced a bill in 1985 that said that we should have a ski authority taken from the recommendations of this report. I don't want to take a lot of time because it's a long day, but I will if necessary if a move is placed to put this into interim study because I think it's important and, that before we do that we remember a little history.

In 1985 the Senate Committee agreed that this should go to interim study and it was and it was studied. I studied it, I looked at it; the Governor set up a ski advisory committee. In 1985 the Governor of this state had problems with the ski authority. He told me that it had unanswered questions. He established an advisory committee; we have met; we have worked hard and Governor Sununu today endorses, not a ski authority but a ski commission that allows that these ski areas are going to maximize the return on the dollar. I can't help but think that that's a wonderful concept. If there is a move for interim study I would plead with you to listen to the needs to further this work, to move this into the House so that this bill can be worked on. I'm happy with it, but I understand that there are others

who are not and I'm willing to work throughout the next year to explain the need for this bill. Something that I really don't feel that I can do because I feel that today we have a gun at our head because of the number of bills, but the importance of this bill falls today. Understanding that there are going to be concerns, I scheduled this bill so that it would not be heard by this Senate last Thursday, which was an important date, because if it was heard last Thursday the House could not choose to recommit to work on this bill. By delaying action today we would allow the House to take this very important idea and concept, not an untried concept. Lake Placid saved themselves by going to an authority. The State of New York was losing all kinds of money until they went to an authority and today, because of an authority, they have a profitable enterprise that is competing and competing fairly. We need to do that with our ski areas. We need to address this problem and anything but ought to pass with the amendment that appears in here that protects the SCA and the people in that concern, as far as what their standings are going to be, would be, I believe, and I don't mean this maliciously, we have a great opportunity at this time to allow this to go to the House and if they choose, they have the option to recommit, to put this bill into a good study, to answer the questions of a snow engineering report that's being finalized and is due April 1st, to address the concerns that I'm sure that many of you have. But I wouldn't stand here and tell you to pass an incomplete bill unless I could tell you also that it's necessary that we keep this going. If we do not and if trends continue, this bill cannot be reintroduced for two years and then at that time we will look at it and, given the trends, we will have lost another million dollars. The time to act is now. I don't stand here and tell you that this will be the final version that this Senate will vote on eventually as it comes back from the House. I know that there's going to be an amendment. I have no objection to that type of discussion, but it would be a shame, it would really be a shame, not to pass this bill to the House today. I would urge you to look at that. I could go on about all kinds of things, but I'd rather do it through the answering of questions as best that I can. I have all kinds of information, I have spent months on this and I would willingly yield to any questions, Mr. President.

SENATOR CHANDLER: Senator Hounsell, I've always been of the opinion that Mount Sunapee State Park and Franconia Notch ski areas were the only state parks in the State of New Hampshire that were yielding a profit to the State. Those two ski areas enabled other state parks to stay open that were operating at a loss. Now



just recently I heard that these two state parks are losing money and I can't understand it. Can you explain why they are losing money?

SENATOR HOUNSELL: I can explain that and, in my opinion, it's because the management structure that they are working on is not structured in such a way that the decisions that have to be made on the spot, that are unique to the ski industry, can be made. They have to pull the ABCC committee for transfer of funds for snow making of the fiscal year, they have to go to the Governor and Council for certain permission to do things. I don't introduce this bill because of the inability of the people running these ski areas, I think they are doing a fine job given the structure that they are working under. But the report that I started on and that I'm convinced is accurate says that we have three choices as a legislature, actually four. We can go along and spend a half a million dollars a year on the 1900 people who take direct benefit of the ski areas or we can lease it, sell it or abandon it or change the structure. This bill changes the structure. This bill allows for a commission to have the authority, the flexibility to run the ski areas in a proper, state of the arts way. I'm going to cite you some figures: in 1981, the combined net loss of the ski areas operating at Mt. Sunapee and Cannon Mountain was \$172,000. After a net gain of \$387 in 1982, the 1983 loss was one million dollars. In 1984 the loss was \$334,000 and in 1985 it was \$1,400,000. The combined net loss for this five year period was 2.6 million dollars. This is the problem and I'm convinced that SB 162, which establishes a ski commission, is our best chance at turning around that unacceptable financial situation. That's the bill in a nutshell. But it does more than that; it allows us to get involved in what is now important in the ski management business and that is to be able to offer to the people who come to this state to ski a choice of quality of ski experience. They don't have that right now because of the management restraints that we have under the present system through DRED and the division of parks.

SENATOR NELSON: Senator Hounsell, I would ask you, this appears to be the privatization of a government operated business. Is that correct?

SENATOR HOUNSELL: No, it is not.

SENATOR NELSON: Could you clarify that for me?

SENATOR HOUNSELL: This bill does not set up what I originally set out to do and that is that it does not set up a pure authority with

autonomy. This bill allows that there will be a commission, answerable to the Governor and Council. Therefore, answerable to the government for its actions to be allowed to take certain management decisions or make the decision on the spot. There's accountability and there's flexibility, but it still remains state operation, a state program and I think our last best shot to be involved with the state in the ski business.

SENATOR NELSON: Then you do not foresee any problems given the new tax laws with this situation, the way it's being set up, there'd be no impact from the new tax laws?

SENATOR HOUNSELL: I'm not professing to be an expert on the new tax laws, I know of none.

SENATOR DISNARD: I rise to speak as a co-sponsor. From my remarks I hope you will understand, I would hope the present motion on the floor would be defeated so that we can send this bill to interim study. Senator Hounsell certainly has some good ideas and I agree with most of his ideas. However, I have a problem with the hearing process. The people in the Sunapee area have a problem with the hearing process. This bill was not available for most citizens in the state to look at until recent times, a very short time ago. The hearing, I think was held Monday of very recent. At the hearing because of the crunch, and I wish to address a hearing process and fairness to the public, I think our conscience should be involved here. In the hearing process, because of many Senators attending other hearings, most of the testimony was heard before one Senator. Many people appearing at this hearing spoke against it or hoped it would go to interim study. Many people left that hearing and I left that day as a co-sponsor with the understanding that it would go to interim study.

This report from Snow Engineering entitled "Management and Facility Report", how in the goodness sakes can we obligate the State to the tens of thousands of dollars for a study and then pass a bill establishing a commission without even reviewing this study and the expenditures? I also understand there's a study to be submitted to the legislature, a master plan report, that also addressed these facilities. I'm just concerned that we invite people from all over the state to attend a hearing in the crunch of the end of the legislative crossover, the room is filled. I'm also lead to believe and understand that only two members of this committee voted on this. We tell the people when they come to a hearing, at least the committees that

I've attended, letting the people believe that there are only one or two Senators there because they're all attending other hearings, but they will have the report to review before they make a committee decision. I really don't believe that that committee had that report to review before they made their decision. So, all I'm saying is that I would hope that this would go to interim study in fairness to the hearing process and fairness to our citizens and fairness to the dollars we are spending for studies. Why spend over a hundred thousand dollars for a study and never review it before we make a decision?

SENATOR HOUNSELL: Senator, did you not appear before my committee and ask that we consider an amendment?

SENATOR DISNARD: Sir, you know that I was not able to appear before your committee because I had another hearing, but you offered me the courtesy and I think you introduced the amendment regarding the concerns of the state employers. Essentially, it's the same.

SENATOR HOUNSELL: Does the amendment appear before you?

SENATOR DISNARD: Yes sir, and that's appreciated. You will recall that I said it was a good bill in most instances. It's the hearing process and the spending of the money that I object to.

SENATOR HOUNSELL: I object to what you're saying and to what you're indicating in your testimony that I forced this through. Are you aware that there was more than just one member throughout this hearing?

SENATOR DISNARD: Sir, I don't remember implying Senator Hounsell forced this through, so I don't think I said that. If I implied that and if you accepted it as that, then maybe that might be so. I was in the anteroom and when I looked in there there was one Senator and never more than two Senators in the hearing.

SENATOR HOUNSELL: Just for your clarification, there was always at least two. I agree that there was a lot of people there. Do you know of anyone that wasn't given the opportunity to testify?

SENATOR DISNARD: No sir, I never said that.

SENATOR HOUNSELL: Senator, would you believe me if I told you that the majority of my committee voted the committee report that you referred to?

SENATOR DISNARD: If you say that, Senator, then you must believe it, but I was lead to believe this morning that two people voted on it and the others were not informed when the executive session was going to be held. I guess we have conflicting information.

SENATOR BLAISDELL: Senator Hounsell, I haven't read the thing, but is there any money in this bill?

SENATOR HOUNSELL: This bill I think has an FN. I think the fiscal note makes it an FN. I don't know of any negative impact and it is the desire and hope of this bill that we would be able to generate revenue, make money, do the proper thing by making the management structure a little bit more efficient.

SENATOR BLAISDELL: Senator Hounsell, if you wanted to prepare an amendment to put a dollar in the bill and send it to Finance, I can cover the hearing process. I'll be very glad to do that. I can understand Senator Disnard's questions on the hearing process and, if that's been violated at all, I think the Senate Finance Committee would be very happy to take a look at it. But that's only a suggestion.

SENATOR HOUNSELL: Senator, to answer your question, I would urge that this Senate not put a dollar to it. I take great exception to think that any hearing that I would conduct was not proper, not done within the guidelines that we've established. I also understand that a lot of committee chairs and a lot of Senators have found themselves in the position of trying to juggle hearings, trying to get executive decisions done and trying to come to a conclusion under the rules. Now, I adhere to the rules, I do the best I can. I won't do that, I'm ready to vote. I believe it's a good bill and I take personal exception that it's been indicated that this bill was not heard properly.

SENATOR DISNARD: Senator Hounsell, would you believe that I did not say nor indicate that the hearing was not heard fairly? Would you also believe that I am still concerned about the process in which the people left that hearing and believed that it was going to go to interim study?

SENATOR HOUNSELL: Senator, I believe that your comments leave a very clear impression in people's minds that the conduct of the Development, Recreation and Environment Committee was not conducted properly and I don't appreciate that.

SENATOR BOND: I rise as a co-sponsor of this bill and, regretfully, in opposition to the committee report. The concept, as Senator Hounsell has outlined it, is important. We need to deal with the fi-

nancial realities of our ski areas. But there are some problems that are in the bill which have to be addressed and they can't be taken lightly. The amendment does deal with the concerns of the state employees, but in researching this bill further I discovered that there's much more to Cannon Mountain State Park than Cannon Mountain ski area. It's a summer operation which the state a long time ago made an investment in to draw tourism into the state as well as a winter area which it should be self supporting. In the numbers that are related to Cannon are also the state park figures for Crawford Notch; opening, closing, maintaining Crawford Notch State Park. The Basin, the Flume, all of those things are one package. This bill doesn't address how you separate these figures; how you determine what should be a profit center and what should be a DRED tourism center. How do you separate your electric bills, there's no guidance in the legislation as to how you arrive at answers to these concerns. For that reason I have to indicate that I could not support the committee report.

SENATOR HOUNSELL: Senator, given your statement that you feel that this thing has to be addressed and it needs to be addressed because there are these concerns that I don't say that aren't there, would you tell me and would you tell the Senate how interim study, which kills it for two years, helps us to go on with the process that we're provided with in the constitution with two chambers of the legislature?

SENATOR BOND: Only in that the snow engineering report and what cannot be properly digested and dealt with in this session, in my opinion.

SENATOR CHANDLER: Senator Bond, you mentioned that at Cannon Mountain there were also other areas that were included in the returns, financially. Also isn't it true that at Mt. Sunapee State Park, they also operate a beach area that has nothing to do with skiing?

SENATOR BOND: That's my understanding, Senator.

SENATOR CHANDLER: Isn't it true that perhaps why they have not shown a profit is because, from their operations, they had to also pay back amortization on capital improvements that they had made. Actually, couldn't they have been making money on their actual operations, but why they showed a loss was because they had to amortize a large sum of money that had been spent on new lifts and other equipment?



SENATOR BOND: It's my understanding Senator, that the loss figure is at least partially derived from assignment of bond expenses for the tramway. I do not know how those are arrived at or how they are assigned.

SENATOR HOUGH: Senator Bond, in line with Senator Chandler's question and I'm seriously asking this, I've read the bill quickly and I do have some concern. Were the operation management of the ski activities at the state owned parks of Cannon Mountain and Sunapee to be operated at the direction of a commission, three members of which are appointed by the Governor? Do I have that correct?

SENATOR BOND: That's what the bill calls for, yes.

SENATOR HOUGH: So, the commission is, very definitely, would be political appointees and obviously I think we could assume that the management then becomes at the discretion of changing Governors as we go out into the future?

SENATOR BOND: Yes,

SENATOR HOUGH: The debt service for the capital improvements that have been made and are being paid off and carried under the state's general bond issue, that will continue to be covered by existing state bonds?

SENATOR BOND: My question to that, Senator Hough, is, is that debt service assignable entirely to a profit center ski area or is it partially assignable to a ski area and partially to DRED'S non-profitable park centers?

SENATOR HOUGH: That's the question that I'm asking you.

SENATOR BOND: This bill doesn't address that as far as I see it and that's one of my concerns.

SENATOR HOUGH: Well then, you would agree that in the management of the ski activity, or the winter activity of the two year-round state parks or their revenue would be used to offset the ongoing daily personnel and other costs. But also it would have to address itself to the debt service for the tramways or the ski lifts that are presently there and will need to be replaced or upgraded in the future. Is that not true?

SENATOR BOND: Yes. Part of that problem is that if you have a man who mows grass and he mows the grounds down in the parking lot for the summer business but at the same time periodically does

the ski slopes to keep them down for the winter, how do you divide his time? Where is it a legitimate cost to the ski operation? There isn't any process in the bill to evaluate different things and determine where we are supporting the ski area at state expense and where we are supporting a summer attraction and where the line should be. There are no nice clean lines in the Cannon situation. I can't speak for Sunapee.

SENATOR HOUGH: So, the intent of having a state commission would be to assume a responsibility of a department of state government for a single activity, if you will. It still does not make it a clean separation; it still becomes a state responsibility, state function, state liability if you will and, given the volatility in the industry, there may be other options to pursue.

SENATOR BOND: That's generally true. My thought would be that the best thing that the State of New Hampshire could do would be to hire a strong ski business manager and have him work within the present structure of DRED and give him certain elbow room that the state processees don't now provide for in terms of bidding and reaction time and so forth. Senator Hounsell is absolutely right, these are constraints that hurt an entrepreneurial business. Within that different structure that the operation could be more effective.

SENATOR HOUGH: Would another option not be a franchise?

SENATOR BOND: I believe that a lease or franchise arrangement would be almost more difficult because, once again, you're talking about what costs are assignable to the state for summer vacationist operations and which to the ski area.

SENATOR MCLANE: I would like to speak briefly about the need for a professional to run a ski area. I've been intimately associated with Wildcat Mountain now for 32 years and my husband was the President for 20 years and I know full well the difficulties of running a profitable ski area. There is some question whether ski areas, as they stand now, can exist in New Hampshire. Except for those large areas such as Waterville and Loon that are connected with real estate and sell real estate and make their profit from that sale and carry the ski areas with that money. The cost of making snow, and you have to make snow nowadays, that's one of the great complaints about Sunapee and Cannon is that they haven't made the necessary snow, and the cost of the insurance. All of these things have meant that Tenney Mountain has closed, Mt. Whittier and others of the

small areas just haven't been able to exist. My strong point is that a 3 member political, unpaid group of do-good, old time skiers cannot compete in the managerial market for a first class ski area. I would be willing to say that the managers of the major areas such as Attitash and Loon and Waterville are paid well over \$70,000 apiece. It is a very, very difficult competitive job to run a ski area and I believe that politicalizing it and putting it to three unpaid commissioners would be disastrous for the State of New Hampshire. I feel very strongly that the bill should go to interim study until such time as the committee and others have had time to read the Branch report. Branch is the best man in the business for running ski areas, he's built ski areas all over the country. It was a firm started by Sal Hanna who started Cannon Mountain and I think that what we should do is study that report and take seriously to heart what that report says before we proceed with another plan to take care of the problems that we are definitely having at Cannon and Sunapee.

SENATOR HOUNSELL: I'm going to conclude, hope not finally conclude, but to conclude for this session because we have other business to do by trying to do away with some misconceptions in the Senate and hope that that will spill over into the general public. First of all, this is not a bill that is a comment on the management abilities of Mr. Reed at Cannon or Mr. Uliniski at Sunapee. It's my understanding and it's the understanding of the Governor's advisory committee that these people are doing the best job that they can, given the structure, and I would contend that, given the structure that we have, there is no ski expert that can run these facilities profitably, economically profitably and offer, at the same time, the ski experience that the people who come to this state and the people who live in this state expect. There was talk about the reasons for the deficit, well there's a big tramway debt, and they're debts in operating and it ties into other things. Let me point out something that we've done through market surveys; in recent years it is very clear that both Cannon and Sunapee are losing their share of the market. That makes us have to ask the question why. Reports by professionals who have been involved in the ski business who are members of this advisory committee, sunset report, I'm not a great skier but I have skied, all say that ski facilities that we're offering, the grooming, the trail maintenance is not sufficient to meet the competitive nature that we have in the ski industry. The ski industry is a dynamic one, a risky one. I'm going to return to the testimony of Phil Gravink because it is excellent. He says, even under the best of conditions, or the best of independent on-site management, the ski industry is not a high profit situation. It can probably be said that

without support of vacation homes, real estate business and land development, I don't disagree with what you said Senator McLane, land development opportunities around commercial areas and, I would hasten to add, including those on state and federal park lands, the industry would be a dying industry and the Alpine skiing enthusiast would be decreasing his opportunity to enjoy his sport. They are decreasing in numbers at Cannon and Sunapee, that's the problem. It isn't in management; it isn't in debt service; it's in the structure. If we are then to be logical, thinking people, and I believe we are, we must ask the question first, are Cannon and Sunapee the types of geographic and technically well suited facilities that should continue to exist? From the professional standpoint my answer, and I think the other people in the ski business would agree, is an emphatic yes. These areas should remain as viable ski areas. The second question we must ask ourselves is, is it incumbent upon the State of New Hampshire to subsidize and provide this service? The answer, in my opinion, can be argued yes, because of the impact of the economy as a whole, the surrounding communities, the employment opportunities, the value of the Alpine portions of these parks and the general public good. If we can agree to that then do we not beg an answer to the most important question, how do we best provide in 1987 state of the art Alpine areas without having it to be at the direct expense of the general taxpayers of the State of New Hampshire? The answer to that question is in this bill, perhaps with some minor refinements that the committee has encouraged Senator Hounsell to prepare and sponsor. I have tried to point out to you that forming a commission or authority to operate an Alpine ski area on state land is not new, untried ground. I'm going to end my testimony at this point, and if you have questions ask them because this bill is not to gut DRED; it's not to get at anyone in the division of parks; it's not to get at the state employees. This bill is to provide those people who come to New Hampshire to ski or people who live in New Hampshire who choose to ski will have a choice and that's the excellent facilities that we have at Cannon and Sunapee. That's the bill. The problem we're faced with is time. If we can move this into the House, then we can work on this bill, we can work towards a solution. Of all the people who came to testify every one of them said, and I've heard it here today, we need to do something. If we interim study this bill we aren't doing anything for two years! Thank you.

SENATOR HOUGH: I wish to indicate that, number one, Mt. Sunapee is principally in Newbury which is in my district although very close to Senator Disnard's and most of the people in the town of



Sunapee that he represents. But I have had a number of people who have indicated in regard to Mt. Sunapee a concern. I guess I would have to tell you and tell you, Senator Hounsell, specifically that as a person who has skied since I was a very young child and I certainly am concerned that the opportunity in New Hampshire to continue to ski will be afforded me and other people, I don't like the idea of a commission or an authority. I dare say I have very strong feelings about this. I have problems in many instances with the state being in business which might otherwise be more beneficial to the state were a private organization operating, in this instance, on state land. I'm also very familiar with the Middlebury College snow bowl and the Dartmouth Ski Way and if my memory serves me correctly it was a number of millions of dollars raised at a Dartmouth fund drive for their athletic complex including a new field house which is presently being constructed and parts of it for snow making at the ski way. But there is no question that the ski way prior to snow making and with snow making was a strict liability against the College. This winter many of the areas have had record attendance and have had record ticket sales. The facts are that there are very expensive pieces of machinery, such as lifts and ski making compressors and all that that entails; it would have to be amortized. In the years that we don't have natural snow, they run longer and longer and further and further into the annual profits and it is a marginal business. Generally, the private developers have real estate and have other profit centers in and around the mountains and it gets down to the canteens being leased to the vendors at a percentage of the gross and there are further social amenities in and around recreation that is skiing. The state and the college do not, could not and should not offer what the private facilities and mountains do offer to attract skiers from throughout the world. I think we all recognize the things as they are perhaps not correct. But I am very concerned that we move forward into an area or under a structure which raises many questions. Of given options this would be the least desirable direction I should think that the state would go. I would be more inclined to support investigations and negotiations to allow the two ski areas involved to be operated in the private sector under some arrangement with the state that does, in fact, own the land. But I'm just very concerned that this would be the least desirable direction I would like to see us go and I certainly cannot support the bill in its present form. I sincerely want Senator Hounsell to realize that I know he's concerned about this, the other area in question is in his district. We share like concerns but I guess we differ on suggestive solutions. Thank you.



SENATOR ST. JEAN: I rise to commend Senator Hounsell on this piece of legislation. I know he's worked very hard on it. I'm not going to comment on that presently. What I am going to comment on is to the skiing that has been at Sunapee this past ski season. I've been fortunate enough to go 20-25 times to Sunapee and the employees at Sunapee, I just want to commend them. They have been very kind and courteous. The trails have been well groomed and it's been a very enjoyable winter season up there and the skiing's still continuing. So, as we debate these issues, I think the employees should be commended at Sunapee and my times at Cannon were also enjoyable. So I think they are doing one heck of a job and I think they should be commended for a fine, fine service performed this ski season.

Senator Disnard moved to substitute Interim Study for the committee report.

Roll Call was requested by Senator Disnard.  
Seconded by Senator Blaisdell.

Those in favor: Senators Bond, Hough, Chandler, Disnard, Roberge, White, Pressly, Nelson, Charbonneau, McLane, Podles, Johnson, Preston and Krasker.

Those opposed: Senators Hounsell, Heath, Dupont, Blaisdell, Stephen, Bartlett, St. Jean, Torr, Delahunty and Freese.

14 Yeas

10 Nays

Motion Adopted.

SB 164-FN, Relative to solid waste management contracts. Interim Study. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The committee felt that this bill addressed the problem of whether or not you want to recycle or whether or not you want to allow for businesses to be willing to take the risk of establishing power generation plants that generate power on waste. Senator Disnard raises that question and he raises it in his bill. The committee feels that there are too many unanswered questions for us to address it at this time and we urge interim study.

SENATOR DISNARD: I was asked, as the sponsor, by the committee to sit down with a member from waste management, a Mr. Thomas Sweeney, to come up with an amendment. Once again, on

Monday I was lead to believe that I should bring this floor amendment to the floor. The amendment is here. I'm asking you parliamentary procedure, I did what I was instructed. What happens now?

SENATOR HOUNSELL: Senator Disnard has an amendment that he feels is important. I can't help but appreciate that attempt, I have no problem with the Senate considering his amendment. It's important to him; he's a Senator. It's important for us to consider. I would urge that we vote no on interim study to allow this amendment be presented.

Motion failed.

Senator Disnard moved to substitute Ought to Pass with Amendment.

SENATOR DISNARD: I offer the floor amendment to SB 164. The purpose of the bill originally was to offer incentive for recycling of waste to energy plants on line and those about to come on line and those being discussed in the planning stages. At the hearing, the only opposition was to protect the plants that are already on line and already a contract signed with, because the bill said the tonnage that's guaranteed a waste to energy plant that produces electricity would have any material that was recycled deducted from the amount of the guaranteed tonnage. I do not disagree that those plants already on line should be grandfathered and protected of contracts. I agree with that. So I guess what I'm trying to say is this will not benefit a plant in Claremont from what I've been hearing outside. This bill will protect the Nashuas, the Manchesters, and the other areas that are planning waste to energy plants, which I understand there are several in the planning stage. What it will do will allow, not mandate, an option for those communities that are going to sign a contract for a waste to energy plant in their discussions and negotiations to withdraw or not include the amount of money to be recycled. All this is, is an environmental bill to encourage recycling within the state. Now, in a waste to energy plant, whether you believe it or not, paper that is burned with other materials causes the oxides to go up the smoke stacks into the air. It's strict'y an environmental bill; it's not a mandated bill, it's an option bill to encourage recycling and think of the dollars. Right now the average shipping fee, hauling materials by the ton to a waste to energy plant, is in excess of \$40.00. All the amount of trash that is recycled will not be carried by the trash haulers to the recycling plant and will save the homeowner, or whoever had the trash, dollars. I have one barrel a

week of 35 gallons of trash and I pay \$1.50 a week. My trash bill now will exceed \$3.00, close to \$3.50, because of the tipping fee. Any amount of materials for new plants coming on line, contracts and help in sight, any material that is recycled people would not have to send. They would have the option to be burned. It would help recycling; it would help the environment; it would help the trees. Thank you.

SENATOR HOUNSELL: Senator, could you tell me that if an area or community is considering the trash energy facilities and a company that is willing to take the business risk might consider that it would be too risky, given that they won't have the tonnage that they are allowed, that they might have to supplement their fuel from some other sources and whether or not that could mean that we'd be bringing garbage in to make it viable?

SENATOR DISNARD: I can't guarantee Senator Hounsell, of other materials from other communities or states would not be brought in if that is so permitted and allowed. I will say people do not know that, having waste to energy plants, how much trash is out there through public testimony. This would only encourage someone that's signing an agreement to have the option to negotiate. Not as much tonnage would have to be guaranteed. It's not to say that the tonnage couldn't exceed that amount. If it exceeds it, it will be less costly for the consumer.

SENATOR HOUNSELL: Given the conservative nature that businesses often evaluate their risks, if they have understated tonnage and we further undermine that tonnage, couldn't it be such that they're not willing to build a plant and therefore the very thing that you stated, which would be new plants would not, in fact, transpire because we've put too many restrictions on them?

SENATOR DISNARD: No, because I don't agree with the understating and plants could be various sizes or more communities could be involved.

SENATOR DUPONT: Senator, as I understand the amendment, it doesn't affect existing plants that are already operating. Is that correct?

SENATOR DISNARD: It does not affect existing plants or contracts being signed and not built.

SENATOR DUPONT: Why isn't this something that can't just be negotiated in a contract?

SENATOR DISNARD: It could be negotiated in a contract, but it calls the people's attention to the possibilities of the options. When the plant in Claremont, or the district 27 towns of both sides of the river was discussed for some reason this didn't enter people's minds that they could negotiate and discuss this. This is just calling people's attention to the possibilities and saving a dollar.

SENATOR DUPONT: Then basically what you're saying then is the only purpose of the amendment is to bring this to the attention of the people of the state.

SENATOR DISNARD: And encourage recycling and save dollars.

SENATOR DUPONT: Then wouldn't it be more appropriate just to word it to call attention to people rather than mandating something as we do in this bill?

SENATOR DISNARD: This is not a mandate, sir, this is an option.

SENATOR JOHNSON: Senator Disnard, would you believe that I want to make sure that I vote right on this bill and I have a real concern. My question is how much heat energy is there in the glass bottles that we send out to the dumps now and some which goes to trash to energy?

SENATOR DISNARD: I can't answer that, I understand that it is beneficial for waste to energy plants who have some of this material to be burned. But, it's also not beneficial when some of that material, the glass and the paper, is burned and the emissions and the toxics that come out of the smoke.

SENATOR JOHNSON: How much heat energy is there likely to be in the aluminum cans that we send out to be burned?

SENATOR DISNARD: No heat energy to be recycled.

SENATOR JOHNSON: So if we take out for recycling papers, particularly newspapers, aluminum cans and glass, what would there be to burn at the trash to energy plants?

SENATOR DISNARD: Every other type of trash that there is, garbage, any other type.

SENATOR NELSON: Senator Disnard, in this bill the language reads, solid waste management districts shall review the potential for recycling. The question is, does that not mandate that every city and town?

SENATOR DISNARD: No, when this was written in legislative services, we made a call to Mr. Sweeney and the answer was no, this is only permissive.

SENATOR NELSON: Would you believe, sir, that it was my understanding that "may" is more enabling than "shall"?

SENATOR DISNARD: Yes.

SENATOR NELSON: As Senator Johnson stated, so do I wish to vote properly on this for my city and you did mention Nashua in your early discussion and I wondered if you would just reiterate what you said for Nashua. SENATOR DISNARD: It is my understanding in that area that there is a trash energy plant being discussed. In the event that this bill is passed, if your committee that signs a contract representing the town or the district are aware of this and then in their negotiations they can take this into consideration not to negotiate such a high amount of tonnage to be guaranteed which you would have to pay for if you don't meet that guarantee. It doesn't say you cannot or the district cannot exceed the guarantee.

SENATOR NELSON: At the risk of beating a dead horse, as they say, I would just again want clarification that the words "shall review" does not mean that once this is passed, if it passes, does not put a burden or impose on anyone the fact that they will have to do that.

SENATOR DISNARD: Again I reiterate, when we asked this to be rewritten this morning, I was guaranteed that this does not mandate, the option is there.

SENATOR CHANDLER: Sounds like a good bill to me!

Division vote called:                      11 Yeas                      12 Nays

Motion failed.

Senator Hounsell moved Interim Study.

Adopted.

## RESOLUTION

Senator Pressly offered a resolution to Harold E. Hardy on celebrating his 100th Birthday.



## COMMITTEE REPORTS

SB 227-FN, Relative to rate stabilization for alternative energy producers. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill was introduced to address a law that we have called The Limited Electric Energy Producers Act. Sometimes it's referred to as 362-A. The committee felt that this bill put further conditions and opportunities that are not needed and we urge that this committee report of inexpedient be voted on at this time.

SENATOR JOHNSON: I'm not going to make any big issue over this particular piece of legislation and I apologize that I didn't have the time to do enough homework and make the case before the committee that's reporting this out. I think it's unfortunate that we're not willing to say to the small power producers in New Hampshire that we, the legislature, are providing encouragement for these small power producers to go forward with what we are told day after day is much needed energy. So, we are in effect, pulling the switch, closing down an opportunity for small power producers at a time when we should, indeed, be encouraging them. I believe that there is a bill in the House that addresses this and at that time I might have a better opportunity to make the case. I sincerely believe that we ought to be encouraging the small power producers in New Hampshire and not discouraging them.

Adopted.

SB 153-FN, Relative to planning for the long-range energy requirements of the state and making an appropriation therefor. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: We do feel that this bill, and this amended version, does address some of the concerns that Senator Johnson spoke of.

Another amendment that appeared is that it allows that the Governor and Council do the appointing. Again Senator Pressly indicated her support of that amendment. We feel that this is a bill that positively addresses the ongoing needs of the state regarding its energy needs and we urge the Senate's support.

## AMENDMENT TO SB 153-FN

Amend the title of the bill by replacing it with the following:

An Act  
relative to planning for the long-range energy  
requirements of the state.

Amend paragraphs III-VII of section 1 of the bill by replacing them with the following:

III. A representative of the public utilities commission, appointed by the governor and council.

IV. The consumer advocate or assistant consumer advocate.

V. Two representatives of the public utilities of the state, appointed by the governor and council.

VI. Two representatives of owners and operators of alternative energy producers of the state, appointed by the governor and council.

VII. Two members of organizations representing environmental and conservation interests of the state, appointed by the governor and council.

Amend the bill by deleting section 6 and renumbering section 7 to read as section 6 .

Amendment Adopted. Ordered to Third Reading.

SB 189-FN, Establishing a committee to study the economic impact of selling the Seabrook Station, Unit 1 Nuclear electric generating facility. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: SB 189 has been interpreted by some, I guess, as pro-Seabrook or anti-Seabrook and I don't get that connotation out of it. Certainly I wouldn't be standing up if it were pro. It establishes a study committee which would serve, without compensation, to investigate the economic impacts of a PUC order to Public Service to sell all or part of its interest in Unit 1. It would help to determine a fair market value and evaluate the availability and cost of replacement of power. I don't think it mandates anything. It says that the Public Utility Commission is directed to base future policy in establishing of rates and if there is such a connotation for or against, I'm not aware of it and wouldn't support it. I look at it as a consumer bill and I hope that's what can be derived from it. I know that the sponsor wants to speak to that specifically.

SENATOR DUPONT: I rise in opposition to the bill that's in front of you at the present time. I really was quite amazed as I went through the bill, not having caught it when it was in committee. I have some

serious questions about what the bill does and I can probably start off by answering one of the questions that the bill poses is, what is the value of Seabrook if it never comes on line? That's zero, so nobody has to waste any time studying that issue. Secondly, we talk many, many times about the PUC being an independent body and not being affected by what the utility wants or what the legislature shall direct it to do and yet this bill directs the Public Utility Commission to base its future policy regarding establishments of rates on a committee that this legislature is going to set up. Now, you can say well, that's a legislature's prerogative, but I was always under the assumption that the PUC was supposed to use fact to set rate, not policy directives from the general court. Furthermore, we go into this whole scenario in this bill about establishing what the cost of the plant should be, bail-out plans, and that's all well and good but again you have a study committee of the legislature doing it when the PUC is already commissioned to study that. I believe it's going to cost of one million dollars to just look at the issues that this bill has raised. It goes on to assume a number of different things, such as the fact that it's conceivable that the PUC will not allow certain costs associated with the plant into the rate base and I really don't believe that this study committee will have the technical expertise to deal with a really, really technical issue way beyond the expertise of any of the members of this committee. While I applaud the efforts of the sponsors to keep the cost of power low in the state of New Hampshire, I think we've gone way beyond the capabilities and means of a study committee that this legislature can establish to look at this issue.

SENATOR CHANDLER: I was not aware that the Seabrook station was for sale and I don't see why there was any sense in having a study committee to find out how much it would bring if it was for sale. As Senator Dupont pointed out, if it is not running, it isn't worth anything!

SENATOR ROBERGE: This study committee calls for a group of people, a very balanced group of people. It calls for a representative of the Public Service Company, consumer advocate of the Public Utilities Commission, a representative of the small power producers, two members of the Senate, two members of the House and it directs them to determine the fair market value of Seabrook after licensing and reliable commercial operation, to evaluate the availability and cost to replacement power if Seabrook station is sold. The PUC directs Public Service to sell off any more of their share in it. Also to evaluate alternative financial bail-out programs for Public

Service in the event of a forced sale. Again PUC mandates them to divest themselves any more percentage in it. It also puts a limit on this committee. The committee must report to the Governor and Council, Speaker of the House and President of the Senate no later than December, 1988. So, it's not an on-going type of situation. This committee serves without any compensation. The findings are the utilities spending more on a facility than it's fair market value is imprudent, payment and rates to a utility for capacity which reflects capital cost in excess of fair market value represents a financial bail-out to the affected utility. The use of the study, the general court directs the public utility's commission to base its future policy regarding the establishment of rates for the Public Service Company of New Hampshire on the results and conclusion of this study. It sets up a responsible group of people to look into the matter, these people will serve without compensation, they will submit their study and it mandates that the study be used. It doesn't say how much of the study, but they have to look at the study and take the study into consideration. I think that's very fair; I think this is a consumer bill. I think we need it.

SENATOR DUPONT: Senator, you just implied that it doesn't force the PUC to use the study yet in number 7 on page 3 it says the general court directs the Public Utilities Commission to base its future policy regarding establishment of rates for the Public Service Company of New Hampshire. Doesn't direct mean you will?

SENATOR ROBERGE: It would be silly to set up a study committee if the public utilities didn't even have to pay any attention to the study. It directs them to pay attention to the findings of the study. Otherwise, why would you set up a committee?

SENATOR DUPONT: Senator, then it shouldn't be a study committee because it mandates that they will do something. A study committee basically is a presentation of ideas for future legislation, yet this bill turns around and mandates that they will use the study.

SENATOR ROBERGE: I agree that they should use the study. I think this is a responsible group of people. It gets the issue out among people who know a lot about this particular issue; they are in the industry, they are able to have an overview; and I think that they will come back with a very responsible study that will be a benefit to the PUC. That's the reason we're setting up this committee, to be a benefit to the PUC. I think they need it and I think they're going to use it and I think not to mandate them to use it is a mistake.

SENATOR DUPONT: Senator, are you aware that the PUC has a fairly lengthy process that they use to determine what is prudent to include in the rate raise and you're asking a group of people that really aren't technically oriented to do this when, in fact, the PUC has an extensive function of its powers that delegate the ability to go in and examine books, hire consultants to determine what's prudent to include in the rate base and yet you're going to put this authority in the hands of a group of legislators. I probably, with the exception maybe of Senator Preston, have spent more of my time in this legislature working on energy issues than anybody in this room and I don't think I have the capability and I'm involved in energy issues on a daily issue and I'm as familiar with energy issue as probably anybody here and I stand in front of you and say that I can't determine what's prudent and what's not prudent from the Seabrook power station. I agree that, perhaps, there's things in there that shouldn't be included, but I don't have the technical expertise to do it and I don't believe, as this bill mandates, that this group has the ability to do it either.

SENATOR ROBERGE: Senator Dupont you will notice on page 1. II, the consumer advocate of the public utilities commission or his designee will be part of this committee. I assume they will have the input of the public utilities commission and the Public Service Company and small power producers plus the members of the House and Senate. So it isn't wholly made up of a legislative group. I think it has an even balance and I think it's going to have the input from the people who do have the expertise.

SENATOR DUPONT: On page 2, could you explain to me how they are going to evaluate alternative financial bail-out programs and whether or not that includes the state helping to bail them out if this group decides this plant ought to be sold.

SENATOR ROBERGE: Senator, they are the study committee. I would not presume to tell a study committee what to do.

SENATOR KRASKER: Senator Roberge, you've just been asked a question about prudence and that you are trying to determine for the PUC, prudence. I don't see the word prudence in your bill at all. Is this your intention?

SENATOR ROBERGE: Yes, I believe it is. There is a news release that I've had passed out and I'll just quote from it very briefly the first two paragraphs. "Public Service Company of New Hampshire



goes before the New Hampshire Public Utilities Commission asking for higher and higher rate increases. The Exeter and Hampton Electric Company, which serves approximately 31,000 customers in Southern New Hampshire, has asked the PUC for permission to decrease its rates”.

SENATOR JOHNSON: Senator Roberge, I'd like to ask you about a legislative intent in regard to section 7, use of the study, which Senator Dupont has asked about. Is it the legislative intent of this bill to in any way bind the hands of the Public Utilities Commission in regard to the use of this study or is it really your intent to make sure they at least give it some consideration in its final form?

SENATOR ROBERGE: That's exactly right, Senator Johnson.

SENATOR DUPONT: I think this is probably the first time I've risen on this floor and asked to speak a second time on an issue, but the more I look at this bill the more concerned I get about it. I refer again back to section 7. It does direct the PUC, no matter what the intent that Senator Roberge indicates may be in good faith. I think given this piece of legislation the PUC would have no choice other than to base its future policy on establishment of electrical rates in the state on this study. I caution you, it doesn't specifically say only on issues that deal with Seabrook; it says future policy regarding establishments of rates for Public Service, so we may be talking about this committee also setting precedents for other rates not just those based on Seabrook. I guess I'm going to close by saying, if you're going to pass this we might as well amend it to do away with the PUC because we won't need a PUC any more because this committee will effectively deal with electrical rates until the year, or probably until after Senator Chandler gets through with being a Senator. It is open-ended and it doesn't give them the authority to stop dealing with the issue of rates. It limits the time in which the committee can meet, but by this bill we're going to be using this information for the next 40 or 50 years to determine what the electrical rates are in the state. It's just a poorly written piece of legislation. I didn't stand when Senator Pressly's bill came up that dealt with planning for the future needs of the state in terms of power and I think that's what this body should to be dealing with, is where we're going, not trying to beat a dead horse and that's basically what this bill does, so I urge its defeat.

Senator Hounsell moved to substitute indefinite postpone.

SENATOR HOUNSELL: Although I am a member of the committee, the committee was split in its action on this and I stand in opposition to this bill. What we just heard from Senator Dupont I think actually portrays this bill and I think that since it is poorly written, we've already established that we want to plan a long range energy needs, I think it's important for us to be in a positive attitude of proceeding along this course and I would urge this Senate to vote this to indefinite postponement.

Roll Call was requested by Senator Dupont.  
Seconded by Senator Blaisdell

Those in favor: Senators Bond, Hounsell, Heath, Dupont, Chandler, White, Pressly, Charbonneau, Podles, Stephen, Bartlett, St. Jean, Torr and Delahunty.

Those opposed: Senators Hough, Disnard, Roberge, Blaisdell, Nelson, McLane, Johnson, Preston and Krasker..

14 Yeas

9 Nays

Adopted.

SB 143-FN, Re-establishing an advisory committee on state economic development and local population growth. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill re-establishes a committee that was created last session. They have important work to do. They have a lot of initiative to get that work on and completed. I would ask that as you look at the amendment you note that the office of state planning shall provide appropriate staff and that we changed the dates of the reports to December 31, 1987 and recommendation for the 1989 legislation. The committee felt that this is good work that the study committee is doing and it needs to continue and this bill re-establishes that committee.

#### AMENDMENT TO SB 143-FN

Amend section 5 of the bill by replacing it with the following:

5 Duties. The committee shall study current laws and court decisions, examine the policy of state economic development, and determine what legislative changes are needed in light of population growth, limited natural resources, the demand for housing, and the

role that local government should play in a process of balanced, responsible growth for our state. The office of state planning shall provide appropriate staff assistance as the committee shall deem necessary for the purposes of this act. The committee shall submit a report to the president of the senate and the speaker of the house of representatives not later than December 31, 1987, and the legislative members of the committee shall be responsible for the introduction of legislation based on these recommendations in the 1988 and 1989 legislative sessions.

Amendment Adopted. Ordered to Third Reading.

SB 144-FN, Establishing a committee to study industrial development marketing. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill, as amended, establishes a joint promotional advertising program in conjunction with a joint promotional program screening committee to promote economic development in this state. The program and screening committee shall be administered by the department of resources and economic development. On page 13 of the calendar, roman numeral five is an amendment that the committee put in that would grandfather, as far as we know just one organization located in Keene that has attempted to do this on their own and we felt that this amendment would allow them to be included in this program that very closely mirrors the one that we have for tourism. The committee feels that it is appropriate thing for us to do and that the money returned on the money spent is worth the program and we urge your support.

#### AMENDMENT TO SB 144-FN

Amend the title of the bill by replacing it with the following:

An Act  
establishing a joint promotional program for economic  
development, and making an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Joint Promotional Program for Economic Development. Amend RSA 12-A by inserting after section 1-e the following new paragraph:

12-A:1-f Joint Promotional Program for Economic Development. A joint promotional advertising program is hereby established to carry out the duties of the department of resources and economic develop-

ment as set forth in RSA 12-A:1-c to publicize the advantages of the state of New Hampshire for basic economic development and to encourage a continuous partnership with local communities in this promotion in order to maintain a viable and well balanced economic base across the entire state.

I. The department of resources and economic development shall administer a joint promotional advertising program in cooperation with a joint promotional program screening committee. Funds appropriated for this program shall be expended for grants for advertising programs entered into with independent groups or organizations which are designed to promote industrial and general economic development in the state of New Hampshire.

II. The screening committee shall consist of the director of economic development and 8 other members appointed as follows:

(a) One member appointed by the governor and council upon nomination by the commissioner of resources and economic development;

(b) Seven members appointed by the governor and council upon nomination by the director of economic development. The members nominated by the director of economic development shall include at least one representative of each of the following: a town, a city, a chamber of commerce, a regional planning commission, and a local development corporation.

(c) Members, other than the director of economic development, shall serve for a term of 3 years and until their successors are appointed and qualified.

III. The screening committee shall elect its own chairman. Members may designate an alternate with the approval of the chairman. A majority of the members of the committee or their alternates shall constitute a quorum.

IV. Members of the screening committee shall not be compensated; however, the commissioner of resources and economic development may set aside up to one percent of the funds appropriated for the joint promotional program in any fiscal year to reimburse committee members for their direct expenses associated with the program. The commissioner shall review and approve all requests for reimbursement.

V. Funds appropriated to the joint promotional program shall only be made available to towns, cities, chambers of commerce, industrial park authorities, local development corporations, regional planning committee, or the promotional organizations as may be certified by the screening committee with the approval of the commissioner of the department of resources and economic development as being non-profit and promotional in nature. Grants under this program

shall only be given to those organizations which have been in existence prior to February 1, 1986 or which have been in existence at least 3 years prior to the date of the grant application.

VI. Grants awards shall require 50 percent matching funds from private sources. Grants shall not be used for the administrative salaries or overhead expenses of any applicant selected for a grant.

VII. Grant applications shall be reviewed by the screening committee which shall recommend approval or disapproval of applications to the commissioner of resources and economic development. A recommendation for disapproval by the screening committee or the commissioner shall be in writing with the reasons for disapproval stated.

VIII. Funds appropriated for the joint promotional program for the first fiscal year of any biennium shall not lapse and shall be available for expenditure during the second fiscal year of the biennium. All funds which have not been expended by the end of the second fiscal year of a biennium shall lapse to the general fund.

IX. The commissioner of resources and economic development shall, with the advice of the screening committee, adopt rules under RSA 541-A after public hearing governing the joint promotional program. These rules shall consider the distribution of funds in areas of highest unemployment in the state, and shall include:

(a) A description of the joint promotional program, stating the general course and method of its operations and the methods by which the public may obtain information or make submissions or requests;

(b) The procedures and criteria used to certify groups or organizations eligible for matching grants;

(c) The application process, including the information required of applicants;

(d) The procedures and criteria used to evaluate grant applications; and

(e) The procedures for the administration of grants by recipients including reporting requirements.

X. Ten percent of the funds appropriated to the joint promotional program may be allocated for a grant or grants to organizations that do not qualify under paragraph V of this section. Such grants shall require 5 percent matching funds from non-state sources, provided that the organization:

(a) Has a demonstrated program of cooperation for promotion;

(b) Has a demonstrated need for promotion;

(c) Has demonstrated a case of regional depression or financial hardship;

(d) Agrees that this unmatched grant shall not be awarded for more than 2 successive years; and



(e) Further agrees that the affected area shall not be eligible for any reduced matched grants for a period of 5 years after the second year following the award of the first of any unmatched grant.

2 Appropriation. The sum of \$100,000 is hereby appropriated for the fiscal year ending June 30, 1988, to the department of resources and economic development for the grants program of the joint promotional program for economic development. This sum is in addition to any other funds appropriated to the department of resources and economic development. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Ordered to Third Reading.

SB 132, Relative to the appointment of the executive director of the department of fish and game. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill would allow that the appointment process for the executive director for the Department of Fish and Game would go back to being accomplished by an appointment by the Fish and Game. Currently we allow for the Fish and Game Commission to nominate five people. Those five people are then placed before the Governor and Council for his final appointment. Given some recent activities within the areas concerning Fish and Game, we felt that it was necessary for us to realize the unfairness of asking an executive director to have to be answerable to two bodies when those two bodies may be in conflict. I think what we have is an opportunity to address an on-going discussion and that this is a bill that needs to pass and we would urge the Senate to do so.

SENATOR HEATH: I would urge the members of the Senate to vote against the ought to pass motion. The Fish and Game Department is embroiled currently in a lot of problems and this would directly insert the Senate into that problem and make it worse. A year ago, the Senate voted overwhelmingly to change the way that the director of Fish and Game is appointed. It was done then in a time when there wasn't a partisan fight going on and it was done with the wisdom that the old system wasn't working. The commissioners, who are political appointees, some of them held over from a previous Governor and so on, have a director who is attempting to run the department with the advice of his professionals, whether they are

law enforcement or biology professionals, and asking favors for their districts; stocking ponds which really aren't up to the standards of a trout pond with trout and do this for this Fish and Game Club in their district. The commissioners have the director at their mercy. We don't have any kind of clear policy in Fish and Game Law if we have the commissioners appointing the director and the director, according to Fish and Game Law, oversees the commission. We've got basically a headless horseman and the proof of that is that since we had the previous system that the ought to pass motion is suggesting that we should go back to, our deer herd is in trouble by comparison to Vermont and Maine-but we have the same basic conditions but our deer herd is down and theirs is up. Our out-of-state hunting license sales are down; our wood duck populations are flat and probably decreasing; our black duck populations are decreasing; our timber doodles or woodcock populations are down; almost every resource managed by the department is in trouble and it's in trouble partially because the inertia created by a lack of leadership in the department. We just cannot have a bunch of good ole boys, political appointments, running the professionals in that department and out guessing them and overseeing them in the way that they do. They were intended as an advisory group for sportsmen. We have some good ones and we have some bad ones but they are lay people and advisory only and when we have them holding the director of a department by the neck so that he can't answer professionally but has to answer politically, then we're in deep trouble. I urge you, in the preservation of the department that badly needs direction and is beginning to get it, not to insert the Senate and the House, if they should do it although I doubt that they will, back into the process and take sides in an internal dispute that, in the end, is probably going to result in a better department no matter who prevails. But it's beginning to shake lose and for us to insert a new element in it I think would be tragic and a total disservice to the sportsmen of the State of New Hampshire.

SENATOR BLAISDELL: I rise in support of the committee report as Senator Hounsell spoke to it. I guess I'd have to disagree with Senator Heath which is nothing new Senator, but I dispute your figures whether or not license sales are down. I believe they are holding their own if not up and I also question your ability to judge deer herd in the State of New Hampshire, although I'm not an expert on it, but I think that what we've done over the years has been excellent, the deer herd is coming back. I don't want to be compared to Vermont anyway. But I think the most important part of this whole bill is, I can't remember how this was done by unanimous vote

of the Senate, I'd probably have to ask a question, I thought this was done through a committee of conference I'm not sure, and I think Senator Wiggins got - he's in Florida now and, George, I think that's a good place for you, to tell you the truth, because I think that what you did on this bill was wrong. I was not paying attention and should have and I'm sorry because I think we did some harm to the Fish and Game Department. I just feel that we should participate in government, that's what Fish and Game Commissioners do. A director can't serve two masters. If he's appointed by the Governor, he gets into trouble if he doesn't do what the Governor tells him and then he has to work with the commission. The commission should appoint the director of Fish and Game. These are people that come from the different areas of the State of New Hampshire who represent the people of this State. You want to check into a few, look what happened to Sewalls Falls and a couple of other things that are going on right now. So, Senator Heath, I respectfully disagree with some of your figures and I think it's a good thing to have the Fish and Game Commission appoint the director. They have to work with him and they are responsible for him. As far as I'm concerned, that's where it belongs and I agree with Senator Hounsell.

SENATOR HEATH: Would you believe that our herd has been below, acre for acre, that of Maine and that of Vermont for at least the last ten years. Would you believe that when I said that the sales had declined, that the out-of-state license sales they declined for a number of years and recently have flattened or may have increased slightly but they have certainly continued to decline against in-state sales, something that was not the case in early years. When you say that the commissioners represent the sportsmen, would you believe that they have little to do with anything except that they have probably made a contribution to a Governor someplace along the line. Would you also believe that I've been in the legislature nine years now, under three commissioners and I have never once had a telephone call from a commissioner from Carroll County on a Fish and Game issue nor have I been asked to meet with one of them individually in all those years. Finally, would you believe that the commission is not geographically representative because of the different sizes of the counties and to further distort it population wise is not representative and finally that we have a floating one in a sense that adds to the coast so that it no way represents in any fair way the sportsmen across the State. Some get a lot more representation than others.

SENATOR BLAISDELL: I think that when you talk about the experts that talk to you about the deer herd, you know I've never shot

a deer in my life, I couldn't do it. I'm too compassionate. But again, my boy's a great hunter and he's done it. I guess maybe the expert that I listen to is some fellow named Harold up in Gilsom who comes down to me and tells me about the deer herd in the State of New Hampshire that's in excellent shape and coming back and it's better than Vermont and things like that. That's who I listen to and he has a great contact with those commissioners. I don't know about your commissioner, but I do know that in my area there's a great contact with the commissioner and a lot of input. I'd hate to lose that input and I see it degenerating really and I think it's wrong and that's why I'm up here supporting Senator Hounsell's bill. You can't call me the great hunter, I don't have a coonskin hat and all that kind of stuff, but I do listen to a lot of people that come in my store and talk to my son and other people who work for me, so I'd like to leave it the way it was. I think the most important of all though, Senator, when you say that this was unanimously passed by the Senate, it was put into a committee of conference and it snookered its way in there. We got snookered and some of us ought to admit it.

SENATOR HEATH: Do you believe that Harold should be the director of Fish and Game Department?

SENATOR BLAISDELL: I'd like to make Harold, yes, I would, because he knows more about it than anybody and he knows more than what we have there right now, I'll tell you that. Just as simple as that.

SENATOR HEATH: I'm not sure that says much about Harold!! You say you want to leave it the way it was, well it was the way that it is now once and then it was the way that it was before we went the way we are now and so which was it the way that you want to leave it?

SENATOR BLAISDELL: As long as former Senator Wiggins is out of it, I want to put it back to the way it was.

SENATOR HEATH: Would you believe that Senator Wiggins was opposed to the way it is now?

SENATOR BLAISDELL: At what time was he opposed, because I think George used to change his mind four times a day?

SENATOR HEATH: Would you believe that he was opposed to it up until he had five bills riding on his signature.

SENATOR BLAISDELL: I wouldn't believe it unless George put it in blood right here.

SENATOR HEATH: When you say that you couldn't shoot a deer, I guess because you admire them as I do and I've shot as many as I could, would it be true to say that when you pay the butcher you're hiring an assassin to shoot a nice brown eyed cow?

SENATOR BLAISDELL: Well, I'll sit down on that.

SENATOR NELSON: Senator Hounsell, on line 12 of the bill it says that the Governor and council shall have the authority to remove the executive director. Is there any reason why you would have the Governor and Council remove him or her and have the commission appoint?

SENATOR HOUNSELL: No, I think that's a good safeguard because I think you're allowing that in the event that an executive director is doing something real crazy that we can act upon it.

SENATOR NELSON: Senator Hounsell, how many members are on the Fish and Game Commission?

SENATOR HOUNSELL: Eleven.

SENATOR CHANDLER: Senator Blaisdell, I heard you say that you have never shot a deer, I was going to say did you ever shoot the bull?

SENATOR BLAISDELL: Since I've been with you Senator, I've learned well.

SENATOR HEATH: Senator Hounsell, under the language that you're suggesting we pass, isn't it a real possibility that you can get into an endless cycle if you have a Governor and Council who are removing as fast as the commission is appointing so that the department dies when you get into one of these battles between the executive branch and the commissioners? Isn't that at least a possibility under that language?

SENATOR HOUNSELL: The way it might be, not the way it is, and the way it was is the way we should go. All the things that can happen in government have continued and I think shall continue to baffle me.

SENATOR HEATH: Which was is the way that you want this way?

SENATOR HOUNSELL: The immediate predecessor to the way it is now which is what the bill does, and I urge you to pass it.



SENATOR WHITE: I rise in opposition to the committee report of ought to pass, if that's what is still on the floor at this time. Basically I think if we research history, it was Senator Griffin and perhaps Senator Heath, that did coerce Senator Wiggins into going against what he said. But Senator Griffin was very outspoken in the belief that it should be done and that was prior to her feeling that she wanted to be a member of the council. For the seacoast fishermen, she felt that it was in their best interest that it be a professional person that was in charge of the Fish and Game. We are in the process whereby we are having the regional Fish and Game headquarters throughout the State. I think it's important that we have a professional in charge and therefor I would hope that we could leave it the way it is. The House, in its wisdom, has already killed a bill that's very similar to this and I question why at twenty past three we're still debating approximately our tenth bill. I would hope that we could start wrapping some of these up and get down to some of the more important items of the day.

SENATOR HOUNSELL: Senator, understanding your concern I think centered around any kind of political involvement in the appointment, would you explain to me how you would feel if you were the executive director and the commission opposed Sewalls Falls and the Governor supported the project of Sewalls Falls and your reappointment first depended upon your nomination by the commission and then the subsequent appointment by the Governor. How you would feel if you had to take to position one way or the other and therefor may not get nominated or appointed?

SENATOR WHITE: I would hope that at some point that everyone could sit down and have a consensus on a great issue like that. I think what Senator Nelson referred to earlier, wherein the Governor and Council could repeal the nomination, you could still have a problem with whoever's there. You know we do have a gun shop. No matter who says one thing you're always going to have someone on the other side. The sportsmen are divided on this issue and I just feel that, for better government, it would be best to have a professional director.

SENATOR HOUNSELL: Are you saying then that the executive director that we currently have who wasn't appointed under the way it is, is not professional?

SENATOR WHITE: No, I want to keep it the way it is.

SENATOR HOUNSELL: But he was appointed under the way it was.

SENATOR NELSON: Senator Hounsell, on page 2 of the bill what does this mean that the director shall devote his entire time to the service of the State.

SENATOR HOUNSELL: That means that it will go back to the way it truly was, that he'll have to work day and night and work hard to do his job.

SENATOR HEATH: Senator, since you brought up a hypothetical in the Sewalls Dam situation, I want to ask you a hypothetical. You have a commissioner from Carroll County or any other county that has a frog pond that he wants stocked with trout a few months before the reappointment of the director comes up and all the biologists and all the good information of the director through the experts tells him that it's a waste of time to put trout into a pond where they are going to die or at least not reproduce and he is asked by that commissioner to do that. Have you not put him in the same kind of a bind?

SENATOR HOUNSELL: I don't believe so because I think that the present situation of the way it is allows for that possibility might happen and that they still need the nomination. I don't believe that our commissioners are involved in that. I don't think that they are necessarily jeopardizing their department for trout stocking. I don't believe that. Even if I did, I don't think failure to pass that would elevate that concern. I think that that type of thing, if it was happening, would continue no matter why. Would it be appropriate for me to ask the Chair that it hurts my conscience to have Senator Wiggins be accused of this committee of conference, when the truth is, I was on that committee of conference and I'm standing here now before you saying that it was my fault, not Senator Wiggins.

Senator Heath requested Roll Call.  
Senator Charbonneau seconded.

Those in favor: Senators Bond, Hounsell, Hough, Dupont, Disnard, Roberge, Blaisdell, Pressly, McLane, Podles, Bartlett, St. Jean, Torr, Delahunty, and Preston.

Those opposed: Senators Heath, Chandler, White, Nelson, Charbonneau, Johnson, Stephen and Krasker.

15 Yeas

8 Nays

Committee Report Adopted. Ordered to Third Reading.

SB 1-A, Establishing the New Hampshire land conservation investment program and making an appropriation therefor. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This is a very important bill before this body at this time and I think it's worthy that the Senate become aware of the policy that's before you and it's my understanding that the funding issue would be addressed in Finance. The bill as amended appears on page 7 and it amends it practically in its entirety on the policy side. I want to just point to a couple of things and then I'm going to defer to Senator McLane, who's going to continue with the committee report.

First of all, I want to state that on page 9, towards the end of it, the appropriation, the sum of \$1.00 is appropriated for the fiscal year June 30, 1988. That is not an attempt to say that this is not worthy of some level of spending, but the committee felt that if we're going to address the policy we had to address it at the least amount of funding available. So, we put the dollar in there so that it would be able to go to Finance under Rule 24 so that funding can be addressed. I point that out for your information.

I just want to state, before I sit down, that this bill has a lot of constituents support, and I mean a lot of constituent support. I think it's important that we listen to Senator McLane, to listen to how we're hammering out the policy because there were, I believe, major flaws in the bill as it came to us and I think that it's very important that as this amendment and bill proceed that we be very aware that the funding issue is going to put the breath of life into this thing. And I would urge Senate Finance that, as they consider the funding, that they would be very, very much aware that there is a possibility that over-funding this in the early stages could detriment the policy, so I urge restraint and I would now like to defer, if I might, Mr. President, to Senator McLane.

SENATOR MCLANE: This bill is probably the second most important bill that we will be facing in this session. We've already passed the first most important which is my wildflower bill. New Hamp-

shire is the fastest growing state in the Northeast and it is said that by the year 2000 we are going to have a population growth that is going to be four times the size of the city of Nashua. We're losing our open space, our farmland, our wetlands and public access to ponds and recreation areas as well as habitat for wildlife. The Society for the Protection of New Hampshire Forests has lead the fight as it did when we bought the Old Man of the Mountain and the State Parks many, many years ago. In an effort between conservation groups and the business community, the BIA has been very strong for this bill and concerned individuals. So that you have before you a bill that has been greatly supported by the New Hampshire communities. It is to be called the New Hampshire Land Conservation Investment Program and the program will acquire through voluntary negotiations from land owners and utilization of all available federal, state, local, private and other matching funds and incentive land easements, development rights and other interests in land. Mark and I worked with a group very hard over the past couple of days to make some policy changes. One of the changes was that instead of being attached to DRED it will be attached to the Office of State Planning and I think that is a significant and good change. There will be a commission, a board of directors composed of 15 members: two members of the Senate, two members of the House, two public members with a demonstrated interest in conservation, one of whom shall represent the interests of cities and towns and one of whom shall represent business interests, to be appointed by the Governor and council. That was one of the changes. Three public members appointed by the Trust for New Hampshire Lands and then a group that will be non-voting, including the director of the Office of State Planning, the Chairman of Fish and Game, the Commissioner of DRED, the Commissioner of Agriculture, the Commissioner of the Department of Environmental Services and the State Treasurer or his or her designate.

This Board of Directors shall first of all adopt rules about how they will buy, lease or accept this land. In order to buy land or enter into contracts they will need the approval of the Governor and council, although we did take the Governor and council out of some aspects of the functions of the Board of Directors. All expenditures for the acquisition of land will be approved by the Governor and council. They can accept gifts and donations and I think it is important at this time to announce that as of March 6, the trust has already gathered from private sources one million, two hundred and sixty-nine thousand, two hundred and ninety-three dollars (\$1,269,293.00). They plan to raise 2.2 million but I think it is very important that the

State of New Hampshire show good faith in their share of the money to be raised in order for the rest of that private money to be raised.

After the Board of Directors, with the approval of the Governor and council, has purchased the lands that land will then go directly back either to a state agency or to the municipality that has matched and suggested the purchase. That is an important aspect. This would not be a continuing land management program, but it will go back to the state agency that is appropriate. They'll issue an annual report and they'll have a Board of Directors. The office of the State Treasurer shall hold and invest the sums belonging to the New Hampshire Land Trust. The monies from the fund may be used to provide matching funds up to the amount equal to the municipal contributions and therein I think we have a lot of local input into which sort of lands will be purchased.

The criteria for the purchase of lands is written into the bill and it is very interesting. The first criteria is that the land may be contiguous to enhanced land already protected from development and this would be land next to state parks, lands in corridors between state parks. The land protects a unique, natural or recreational source. The land allows for public access, the land serves or is managed for multiple use and obviously the land would be acquired through gifts, donations, matching funds and other incentives before state funds could be expended.

Mark and I added, at this point, number 6 on page 9 which is that the land would help to provide an equitable distribution throughout the state of land protected under this chapter. We've heard complaints from Nashua and we've heard complaints from the north country that they would be buying land in another section of the state and so I think that this would answer those concerns. Another section that we put in and worked on says that no lands purchased for permanent state ownership under this chapter shall be posted to prohibit hunting or fishing except as necessary for the protection of citizens or upon recommendation of the Fish and Game Commission. The interest in the land shall be held in public trust and they cannot sell, transfer, convey or release this. This is terribly important. Because this land will be bought for recreation uses, much of the land will be donated and we're not going to go back on our word twenty or thirty years from now so that is written in. Another important part that Mark and I added is a provision for a public hearing if petitioned. We had a public hearing in there for every piece of land and we realized there may be up to 300 or 400 purchases and that would



be a pretty cumbersome project for a bunch of directors to go to that many public hearings. So, at this point, that the selectmen have to be notified by certified mail, there is a public notice posted and if ten or more registered voters ask for a public hearing there will be a public hearing.

The New Hampshire Land Conservation Investment Program shall terminate on June 30, 1993, after they have bought the land, transferred the upkeep and keeping of this land either to a state agency or municipality. Then the Council on Resources and Economic Development shall assume those powers of the executive director, and as Mark said, there is \$1.00 going in the bill to take it down to Finance. We have more work to do as we work out how much and how we raise the money necessary. But I think at this point it's terribly important for this Senate to send this important bill, SB 1-A, on to Senate Finance with a rousing vote of support for a plan so necessary to the State of New Hampshire.

SENATOR WHITE: Senator, I'm impressed that they have raised in excess of a million dollars and I wonder did they have a special person in charge or was that done by a non-profit organization that did it?

SENATOR MCLANE: This is a non-profit organization. They have hired the man that did the fund raising for the Milford Playhouse, so they do have a fund raiser connected with the Society for the Protection of New Hampshire Forests and with the New Hampshire Land Trust. If you listen to Senator Trobridge, you would know that he sounds like he raised it single handedly but, there have been a few other people helping, a lot of people. I think that is a significant amount of money from private funds. That does not include the value of the land that has already been donated to the trust.

SENATOR WHITE: You indicate that it's going to Finance and would you believe that I have a problem in that it says that it prohibits the resale of this but as we all know that this can be done in another legislation and I wonder when it gets to Finance, would you put it in that it must be written in the deed that it cannot be sold, that it must stay in the hands of the State of New Hampshire since we will be the ones buying it?

SENATOR MCLANE: I would assume that that would be true already, because what it says is the sale, transfer, conveyance or the lease of any land is prohibited and I would assume that there are

enough lawyers in that group so they would know that the only way to prohibit that is to have it in the deed. I will make sure of that.

SENATOR WHITE: Thank you, because one legislature can then wipe that out.

SENATOR MCLANE: I know that and I think that's one of the reason that that is put in that fashion.

SENATOR DISNARD: Senator McLane, could you explain on your and Senator Hounsell's addition on page 9 in section 6, equitable. Is it equitable in terms of dollars or equitable in terms of land? If it's in terms of dollars I'd have a question because in a larger city the land would be more expensive.

SENATOR MCLANE: We had some questions about that whole idea because one of the things now is that the north country, if you look at a map of New Hampshire and you add the national forest to the map, it looks like the north country's almost all public lands now. So, I think it was very clear in our minds that we were talking both dollars and land mass and definitely talking just new acquisitions.

SENATOR ST. JEAN: I rise in opposition to the pending motion and I do that not because I'm against the purchase of property for environmental reasons. I do that because (tape change.) that we bring down from \$3.75 per 1,000 to \$2.50 a 1,000. That's a promise that he made to the people of the State of New Hampshire and that's something that I think that he should be held accountable for. There are other promises of course, the Governor has made across the boards that he's never lived up to but I think this is one that was pure and simple. I think one has to look at the monies involved here. The monies that are involved are ten million dollars for the first year and ten million dollars the second year. To my way of thinking, ten million dollars to give to a group of individuals that have been around a couple of years is an enormous sum of money. I think what's going on here, and the Governor has often spoke about private partnership, he doesn't want to get the government involved and he goes around this State and this Country preaching that sermon, but when it comes to this he wants to use our tax dollars for a bunch of bird watchers around the State and I think it's wrong.

We had former Congressman Cleveland come before the committee, current Congressman Judd Gregg, two conservatives who go down to Washington - Jim Cleveland was there and Judd Gregg now - vote against every social program down there and then they come back

here and they want to use twenty million dollars of our money. I say that's wrong and it shouldn't be happening now. Last week in Finance we looked at catastrophic aid, we looked at funding for shared homes, we're going to look at the full employment program for welfare mothers; things that affect people and I think it's now time that we have to prioritize. I have to do that for my district and we in the Senate have to do that. Susan McLane would like to believe that we could fund everything and, Susan, I wish we could fund everything. But that's not the way it works and I don't think now is the time to be buying a bunch of trees all over the State.

Currently in my district, as I speak, we're dumping raw sewage into the Merrimack River, something that's been going on for quite some time. It's going to continue to go on. But no, we want to buy trees. I think it's time that those individuals that are benefitting directly by coming here, developing the southern tier and the areas around Concord and the north country should be paying for that. Those are the individuals that are reaping the benefits of what's taking place in this State and that's the New Hampshire way and that's New Hampshire tradition. Look what we have here; we have a wonderfully slick brochure; we've been lobbied to death on this; everybody who's anybody is for the land trust, but if you look at the numbers I don't think at this time we can afford to do that. I, in my district, have a problem with the homeless as do the people in Nashua and all the major cities in this State. Jim Cleveland in New London, New Hampshire, I can't imagine last time they had a homeless person there. These are real people that we have to deal with and I understand how important it is to have scenic ways around this state, but now is not the time. I stand opposed to this legislation and urge individuals to do likewise.

SENATOR BLAISDELL: I rise in support of the committee report. I congratulate Senator Hounsell and Senator McLane in what they did. I remind this Senate that the monies that will be put into this bill, I don't know how we're going to do it, but I remind you that we will make the decision in Finance and bring it to you on the floor for you to make that decision. I have the same concerns as Senator St. Jean has. As you know I've talked about AFDC and every other social program you can talk about, but I think we're big enough in this state to be able to address all of them and fairly. I remind you again that the Governor can propose and I remind you again that the legislature appropriates.

SENATOR PRESSLY: I rise in support of this bill. I feel that we have many children that need attention and that we can care for all

of them fairly. The land, the beauty, the trees, the special aspect of New Hampshire is in fact very important. It is irreplaceable. Once black top or some destructive mechanism destroys the naturalness of our land, it is almost irreplaceable. I support this effort. I anticipate that my region of the State will benefit from this effort. Where we are with the pressures of growth, what little land we have becomes even more important and more precious and more vital for preservation and I certainly hope that the region that I represent will be able to actively participate in the benefits of this project. I commend the committee for their very fine work. Thank you.

SENATOR HOUNSELL: Senator St. Jean, would you believe I am in agreement with you, but to an extent. Would you feel comfortable with this bill, the policy side of it, if you knew that down the road that the appropriation is going to be extremely reasonable, extremely responsible to meet the needs to implement this in a responsible manner, not just simply to feed the desires of an elite group, but for all the people of the State: carpenters, plumbers, waitresses, everyone. Do you not feel that there is perhaps a level of funding that could accommodate the policy of the bill without being extravagant?

SENATOR ST. JEAN: To be honest with you, Senator, the appropriation that is currently attached to it, I guess it's a dollar, that may be appropriate. I'm not being facetious either. I just don't think that we have the monies to fund it as is desired by certain individuals.

SENATOR HOUNSELL: Would you not be surprised to know that I also endorse this policy at the current level of funding that appears in it, but I think that there is a higher level that could be obtained before I would object strenuously?

SENATOR ST. JEAN: If you're telling me so, Senator, I certainly wouldn't question you in any way.

SENATOR WHITE: I rise in support of the committee report of ought to pass as amended. I think it is a vitally important bill for the State of New Hampshire. In the past, I have been opposed to the Connecticut River bill because I felt that that was only addressing one area of the State and I think that all areas of the State have to be addressed. I feel that in this bill we finally are addressing the land problems that we are having, especially in the southern tier of the State as development comes and crowds us out. But it's not just the southern tier. The mountains are being bought and purchased, con-

dominiums are going up all over and if we want to preserve the quality of life that we have had in the State of New Hampshire, this is one way of doing it. I spoke to my concerns before about once we put the money out I certainly hope that the deeds will have something in them that we cannot at a later date come back and sell the property for a profit to developers. I think that it is important that if we do do this, it's absolutely restricted and it doesn't get back out into the hands of private developers. Other than that, I think there are no constraints on the bill, so I heartily support this. I think that now that we have a surplus in State government, this is where surplus money should be spent. Surplus money should be spent on one shot deals, not on something that continually increases the appropriation so that when you have a shortfall in revenues, then you have to go out and increase taxes to fund it. We are in the enviable position at this time of having a surplus and I feel that rather than going out, - we have low unemployment, we have low levels of people on welfare, when we go into hard times those levels will increase and I think that now is the time to spend that bit of money for the future of the State of New Hampshire.

SENATOR HOUGH: I rise in support of the committee report and the bill as it is amended. There is no question that this is the most important piece of legislation of this session. It does my heart good to see that Senator St. Jean is concerned about the plight of human beings and I like to see him and Senator Hounsell in agreement. Senator St. Jean, I would tell you this: take heart. There have been many issues that you have been on the right side of in this session and you're beginning to grow in your knowledge and enlightenment. By the end of this session, you certainly will be in support of this piece of legislation. It protects that of New Hampshire which remains in its undeveloped state. And as you leave Senate District 20 more often, you will begin to understand that there is beauty in trees and hills and vales. As our friends, Jim Cleveland and Judd Gregg, have wandered afar, they have come to recognize that there is something from whence they come that must be protected. In terms of the plight of human beings in this State, there are three individuals in this Senate that have repeatedly demonstrated and argued for using the ways and means that are at our disposal, so that the areas of human plight can be addressed. But that isn't what the debate is about today; the debate today is whether we recognize that which we are entrusted with and protect it in a way that it will be here for future generations. We are not establishing a bureaucracy and we are not establishing more government. In line with Senator White's words, we are taking advantage and we're seizing the mo-



ment. We are developing through a unique cooperative effort of the local people, environmental organizations and industry in partnership with State government to identify these pieces of valued, undeveloped property and to hold them in protection and at the end of our endeavors, in a short period of time, this mechanism will go out of existence. That is what is important and Senator St. Jean take heart, when we work in Finance I'm sure you will come to a point where you will support the committee's report of passing this very valuable piece of legislation and go on in growing in wisdom. Thank you.

SENATOR JOHNSON: I rise in support of the committee report. I do so with great confidence knowing that I'm reflecting the views of my constituency. At the Northwood town meeting last Saturday, I had probably more than a dozen people come up to me and ask me to support this bill and that's in addition to numerous phone calls that I've had.

#### AMENDMENT TO SB 1-A

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Program Established. Amend RSA by inserting after chapter 221 the following new chapter:

#### CHAPTER 221-A LAND CONSERVATION INVESTMENT PROGRAM

221-A:1 Statement of Purpose. The general court recognizes that in order to maintain New Hampshire's distinctive quality of life, strong economic growth must be balanced with responsible conservation initiatives and that the history of conservation in New Hampshire has been marked by cooperation among government, business, individuals, and conservation organizations. The general court further recognizes the strong traditions of both public and private land ownership and use, home rule, and the current need to invest in the conservation of natural resource lands in the state for the perpetual use of the people of New Hampshire. The general court hereby establishes the New Hampshire land conservation investment program.

221-A:2 Program Established; Intent. There is established the New Hampshire land conservation investment program. The intent of the program is to preserve the natural beauty, landscape, rural

character, natural resources, and high quality of life in New Hampshire by acquiring lands and interests in lands of statewide, regional, and local conservation and recreation importance. These lands may include aquifer recharge areas, forested watersheds, recreation lands, areas of special scenic beauty, plant and wildlife habitats, critical farmlands, undeveloped shorelines, wetlands, flood storage areas, and other important open space and natural resource conservation areas. The program shall acquire, through voluntary negotiations with landowners and utilization of all available federal, state, local, private, and other matching funds and incentives, lands, easements, development rights, and other interests in lands for the primary purposes of protecting and ensuring benefits from and public access to natural resource lands of statewide, regional, and local significance.

221-A:3 Program Administratively Attached. The New Hampshire land conservation investment program shall be administratively attached to the office of state planning pursuant to RSA 21-G:10.

221-A:4 Board of Directors; Members; Quorum; Limitation on Liability.

I. The New Hampshire land conservation investment program shall be administered by a board of directors composed of 15 members. Voting members shall not appoint designees to act in their places, except that the president of the senate and the speaker of the house may appoint designees for their representatives. The chairman shall be elected from among the public members board membership shall be as follows:

(a) Two members of the senate, to be appointed by the senate president.

(b) Two members of the house of representatives to be appointed by the speaker of the house.

(c) Two public members with a demonstrated interest in conservation, one of whom shall represent the interests of towns and cities, and one of whom shall represent business interests to be appointed by the governor and council.

(d) Three public members to be appointed by the Trust for New Hampshire Lands.

(e) The director of the office of state planning.

(f) The chairman of the fish and game commission.

(g) The commissioner of the department of resources and economic development.

(h) The commissioner of the department of agriculture.

(i) The commissioner of the department of environmental services.

(j) The state treasurer or his designee.

II. Members appointed under subparagraphs I(e) through (j) shall be advisory, non-voting members.

III. The terms of the state members and the members of the senate and house of representatives shall be coterminous with their terms in office. Members appointed by the governor and council under subparagraph I(c) shall serve a 3 year term. Members appointed under subparagraph I(d) shall serve a 2 year term. Members may serve successive terms, and the legislative members shall be reimbursed for mileage at the legislative rate.

III. Six voting members shall constitute a quorum. Decisions shall be made by a majority of the members present and voting. Each member appointed under subparagraphs I(a) through (d) shall have one vote on matters coming before the board. No bloc voting by any members shall be permitted on any matter. The board shall meet monthly and at such other times as may be deemed necessary by the chairman.

IV. Board members shall not be subject to civil liability for acts performed in accordance with their duties under this chapter.

**221-A:5 Powers and Duties of the Board of Directors.** The board of directors shall:

I. Adopt rules under RSA 541-A relative to criteria and guidelines for identifying and acquiring lands, easements, development rights, and other interests in lands in accordance with the purposes of this chapter. These criteria and guidelines shall include those listed in RSA 221-A:9.

II. After approval by the governor and council, enter into contracts with private entities for services necessary to carry out the purposes of this chapter.

III. Oversee, direct, and expend funds deposited in the trust fund of the New Hampshire land conservation investment program in accordance with the purposes of this chapter. This includes, but is not limited to, the authority to draw upon funds for acquisition of lands and for the administrative costs of the program. All expenditures for the acquisition of lands, easements, and development rights under this chapter shall be subject to the approval of the governor and council.

IV. Accept gifts and donations of money, including money from appropriate fund raising activities; land; interests in land; federal, local, private, and other matching funds and incentives; and other assets to be deposited in the fund for the purposes of this chapter.

V. Assign each parcel of land or portion thereof, and each interest in land, to a state agency or, in the case of lands acquired using municipal matching money, to that municipality, for management.

VI. Prepare an annual report to be presented no later than December 1 of each year to the speaker of the house, the president of the senate, and the governor and council. The report shall include a listing of all the lands and land rights acquired, the expenditure for these acquisitions, and a complete financial accounting of the funds in the trust fund.

221-A:6 Executive Director. The board of directors shall appoint an executive director who shall hold office at the pleasure of the board of directors. The governor shall compensate the executive director within the limits of available funds. The executive director shall:

I. Coordinate the activities of state agencies directly involved with the administration of the program in accordance with this chapter.

II. Evaluate land and determine if the parcel meets the criteria of the program, subsequent to instruction by the board of directors, and in consultation with the Trust for New Hampshire Lands.

III. At the direction of the board of directors, administer the affairs of the program and be directly responsible for executing all policies of the board.

221-A:7 Trust Fund Established; Administration.

I. There is established in the office of the state treasurer the trust fund for the New Hampshire land conservation investment program. Moneys in the fund shall be used for the purposes of this chapter and shall not be used for any other purpose.

II. The state treasurer is directed to invest the sums deposited in the fund in a prudent manner consistent with the purposes of this chapter. Interest earned on moneys in the fund shall accrue to the fund to the extent allowed under federal law.

III. No funds of any state agency shall be transferred to the trust fund without specific authorization from the general court, except for federal funds accepted by the governor and council for purposes similar to those of this chapter.

221-A:8 Program Administration; Matching Funds.

I. Acquisitions of development rights to farm land shall be coordinated with the agricultural land development rights program established by RSA 432:18 through 31-a.

II. Moneys from the fund may be used to provide matching funds up to an amount equal to the municipal contributions for the purposes of this chapter. Matching moneys from the fund shall be used

only for municipal acquisitions of land and interests in land that meet the criteria established by the program and for which municipal matching sources are available. Municipal matching funds may be obtained from sources including, but not limited to, municipal appropriations, private donations, federal funds, and a conservation fund authorized under RSA 36-A:5. Gifts of land and interests in land may qualify as, and be contributed to, the local matching funds. Municipalities shall manage lands and interests in land acquired under the program in accordance with the purposes of this chapter and in accordance with the criteria established under RSA 221-A:5, I.

**221-A:9 Acquisition Criteria and Guidelines.** The criteria and guidelines adopted by rule under RSA 221-A:5, I for acquiring lands and interests in lands shall include, but shall not be limited to, the following:

I. The land is contiguous to or enhances land already protected from development.

II. The land protects a unique natural or recreational resource.

III. The land allows for public access.

IV. The land serves and is managed for multiple uses.

V. The land would be acquired through the use of gifts, donations, matching funds and other incentives before state funds could be expended.

VI. The land would help to provide an equitable distribution throughout the state of land protected under this chapter. Nothing in this section shall be construed to require that each acquisition of land or interest in land under this chapter must meet all the criteria listed in this section.

**221-A:10 Management.**

I. All lands and interests in lands acquired by the program shall be assigned to one of the state agencies or, where the land is acquired with municipal matching funds, to the municipality for management in the public interest in accordance with the purposes of this chapter and shall not be managed by the program. Each assignment of land to a state agency shall be subject to review and reassignment if the board of directors deems it advisable.

II. No lands purchased for permanent state ownership under this chapter shall be posted to prohibit hunting or fishing, unless the board of directors, by a majority vote of the voting members, deems such posting to be necessary to protect the safety of the citizens of the state, or upon recommendation of the fish and game commission.

**221-A:11 Public Trust.** The lands and interests in lands acquired through the use of the trust fund for the program shall be held in



public trust and used and applied for the purposes of this chapter. Notwithstanding any other provision of law relating to the disposal of publicly-owned real estate, no deviation in the uses of any land or interest in land so acquired to uses or purposes not consistent with the purposes of this chapter shall be permitted. The sale, transfer, conveyance, or release of any such land or interest in land from public trust is prohibited.

221-A:12 Public Access; Liability. No person, or his successor in title, who has granted or sold rights of public access by virtue of an easement, right-of-way, development right, or other means in accordance with the purposes of this chapter shall be liable to a user of that right of access for injuries suffered on that portion of the access way unless those injuries are caused by the willful or wanton misconduct of the grantor or successor in title.

221-A:13 Notification; Public Hearing. Prior to the acquisition under this chapter of any land by the state for permanent state ownership the board of directors shall notify by certified mail, return receipt requests, the selectmen of the municipality in which the land to be acquired is located. The selectmen shall post a public notice of the proposed land acquisition and shall, at the request of 10 or more registered voters, petition the board to conduct a public hearing. The board shall allow at least 3 weeks for a response from the selectmen prior to making any decision on the proposed acquisition.

2 Program Renewal. The New Hampshire land conservation investment program established by RSA 221-A shall terminate on June 30, 1993, unless renewed by the legislature, subject to the provisions of this section. If the program under RSA 221-A is not renewed on or before June 30, 1993, it shall not terminate, but the council on resources and development shall assume the power and duties of the board of directors on June 30, 1993.

3 Appropriation. The sum of \$1 is appropriated for the fiscal year ending June 30, 1988, for the purposes of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect July 1, 1987.

Senator Hounsell requested Roll Call.  
Senator Bartlett seconded.

Those in favor: Senators Bond, Hounsell, Heath, Hough, Dupont, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, Charbonneau, McLane, Podles, Johnson, Stephen, Bartlett, Torr, Delahunty, Preston, Krasker and Freese.

Those opposed: Senators Chandler and St. Jean.

22 Yeas

2 Nays

Amendment Adopted. Referred to Finance under Rule 24.

SB 7, Granting degree granting authority to the Thomas Moore Foundation. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: The committee recommends inexpedient to legislate. The nation's President agrees with the problem of granting authority there. More work needs to be accomplish before this can be passed to the House.

Adopted.

SB 210-FN, Relative to minimum education standards for elementary and secondary schools. Interim Study. Senator Johnson for the Committee.

SENATOR JOHNSON: I would like to begin by saying that the sponsors of this bill have accomplished two important objectives. They've sent a message that the legislature will be very sensitive to any state board of education action that has the slightest hint of an unfunded mandate. The second objective is the legislature has a continuing interest in educational standards and curriculums, particularly sensitive areas.

There are two other points that are worth mentioning. First the elementary standards that are being proposed will have a four-year phase-in period plus the opportunity for extensions up to three years. Secondly, the foundation aid money, at the rate of \$64,000,000 for the next biennium, is available for use by those local school districts that would need it for the purpose of meeting the standards.

This bill represents a major policy shift and the Education committee did not, in the time available, have the time to deal with all of the implications of this bill and therefor recommends a vote of interim study.

SENATOR HOUNSELL: I'm going to hope that we can defeat the motion of interim study. I rise in opposition to that so that we could pass this important bill. I want to first of all say that I'm glad that Senator Johnson has at least focused on what this bill is concerned with. I think that, however, it's important that we understand this. I had passed out, in front of you, a press release that I did January 29th that I think addressed the misinformation and the misconception that was out there. On the second page, I want you to take a look at the figures that were provided through the LBA and substantiated by the Department of the impact of the rule setting the new minimum standards on the local community. In contrary to some reports, what this bill does and doesn't do, this bill does not eliminate minimum standards of elementary schools. But this bill will retract the rule making authority of the Department of Education only as it pertains to the authority to set these minimum curriculum standards. It further states that the department will recommend the standards to the legislature and it will be the legislature that will set the minimum standard as in accordance with the constitution.

Now, my reasoning behind this is not to prohibit kindergarten or to prohibit the health curriculum or any other program that is in the minimum standards. That's not my concern. It's to protect the intent of the new constitutional amendment that we're all struggling and trying to understand its impact, commonly known as Con-Con II, which prohibits the State to mandate programs without State funds. So, this break down of the funding is not in dispute, I've not heard anyone say that those aren't accurate figures. This is the problem as I see it, that these rules are implemented. The schools or a school out there, will take the State to court and say pay. And if the State is taken to court and told to pay, then the amount that has been appropriated has been done so, not by Senate Finance, not by the Senate, not by House Appropriations, not by the House, not by the General Court, the elected people who are constitutionally put here to determine the budget but, by an agency. That's not the intent of our founding fathers to have this type of spending done by the executive branch. That's ours and we should preciousely hold on to that and keep that ours. I believe that there are people here who can struggle with the minimum standards. I think that we could work in conjunction with the fine efforts of the department, which by the way I do not object to, I'm convinced that we have good people over there. There's not any way that anyone can ever convince me or anyone who has met Otis Cloud that he does not have a sincere concern for the education of the students and the kids of this State. That's not

the issue. The issue is how we're going to put funds in the local communities. That's ours, that's the legislature's prerogative. We have to address Con-Con II; we have to address State mandated programs; this bill does that. This bill takes the possibility of a court case away. This would allow us to struggle with those questions, a tough struggle yes, but a struggle that we were elected for. We ran for this position; these are the things that come before us. I would urge that we put this forward today, that we vote no on interim study, that we pass this bill onto the House, that the House is capable of addressing this bill. There's two people here from the House right now who are co-sponsors, Rep. Bill Bushey and Rep. William Hounsell. Bill Bushey, most of you have known in the past to be the Chairman of the House Education, he's now on to bigger and better things at Fish and Game. My brother, Bill Hounsell, is the Vice Chairman of House Education. They are on this as sponsors and any of you who know them know that they do not oppose minimum standards. But they recognize the tough duty that we all face whether it be in education or the environment or the judicial branch or safety. That's our's, folks, and we had better hold on tight or the courts are going to take it from us and the executive branch. Hang on tight to what we have. Thank you.

SENATOR DISNARD: I speak as the Chairman of the Senate Education committee and support Senator Johnson's report. The support of the local school districts was not there. I polled about 35 districts through their school board chairman. Overwhelmingly, they did not support this and they agreed with the Department of Education. In discussion, as Senator Johnson indicated, this money is spread out over seven and possibly eight years through appeals with additional monies through foundation aids, the Augenblick formula with additional monies through catastrophic aid. The sentiment out there from the people in the field, which surprised me, is that the money is forthcoming now through other state aids and therefor it will offset the \$13,000,000 spread over seven years. It does not affect that many school districts. Also in testimony it was pointed out, and in discussions, that the local board is really upset, as Senator Hounsell and I am, that they should handle this through the courts for these mandates. Once again through the hearings, support wasn't there.

SENATOR HOUNSELL: Senator, understanding that, but also understanding that a court case could very well do the following, don't you think that this bill ought to proceed and I'm going to state you the following; under standard #41 the funding over the next four

years is four million dollars for reading specialists. If school A has, before this ruling, had a specialist but school B hasn't but school A has done it out of local funding and school B has avoided that, in a court case under Con-Con II, couldn't it be the case that school B would get total state funding for this program but school A, which had adopted this standard before it was mandated, would get nothing?

SENATOR DISNARD: I must admit, but through the hearing process, the support wasn't there from hardly anyone.

SENATOR NELSON: Do I understand you correctly, Senator, to say that you would like to see the standard set for the State of New Hampshire by an elective body of 400 members in the House of Representatives and 24 in this body?

SENATOR HOUNSELL: Yes.

SENATOR NELSON: Do you feel that there are two parts to this bill, one is setting the standards for the elementary schools throughout this State and number two, the implementing of those standards?

SENATOR HOUNSELL: I believe that there are, but I believe it ties together to one issue and that is that no standards come without cost.

Senator Charbonneau requested Roll Call.  
Senator Hounsell seconded.

Those in favor: Senators Bond, Hough, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, McLane, Podles, Johnson, St. Jean, Delahunty, Preston and Krasker.

Those opposed: Senators Hounsell, Heath, Dupont, Chandler, Charbonneau, Stephen, Bartlett and Torr.

15 Yeas

8 Nays

Adopted.

SB 83, Relative to distributing political campaign literature at polling places on election day. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: SB 83 is intended to prevent candidates or supporters of various political candidates and/or issues from posting or distributing campaign materials and information as well as



performing any electioneering activities which may affect the safety, welfare and rights of voters within a corridor of six feet by a hundred feet from the entrance door to the building where the election is being held. The voting public has mixed feelings about going to the polls on voting day. Some feel intimidated by the efforts of various campaigners, others simply feel it is unnecessary harassment and yet others simply don't mind.

I'd like to share with you one incident that happened this past week on election day in Salem. Two candidates who were very friendly became involved. I just passed this out, it's not something to be proud of, but to tell you that these people were both trying to get the voters attention and as a result an unfortunate incident occurred and it really disturbed the people at the polls. And this is what happens when you don't protect this corridor, have this access for the public.

The Executive Departments committee recommends the bill be voted upon as ought to pass with amendment.

SENATOR BOND: Senator Delahunty, what effect will this have on motor vehicles parked in the vicinity of voting places with wide signs?

SENATOR DELAHUNTY: First of all, the motor vehicles won't be in the corridor, and within the area they are disallowed.

SENATOR KRASKER: What effect does this have on candidates standing within one quarter of a mile if they're not holding any literature or passing out any literature?

SENATOR DELAHUNTY: I think I'll defer to Senator Bartlett on that. It is my understanding is that the candidate or his supporters just standing there would be okay.

SENATOR BARTLETT: If you'll turn to page 11, the entire bill is the amendment. They amended the bill by replacing all after the enacting clause. What this bill does basically is establish a corridor six feet wide and one hundred feet long. It did away with the whole bill as far as placards and cars and everything else and it just established a corridor to the polls so that people could walk without interruption and people could stand eight feet away and they could have their cars. It's pretty difficult to say you can't have a car within a quarter of a mile. We talked to the sponsor of the bill and I think that this was acceptable to him to have this corridor so that the entire bill

was stripped and replaced with a hundred foot corridor, six feet wide, to the voting place. We realize that sometimes in the city it's a little difficult to do that, but the discretion of the moderator will hold.

SENATOR ROBERGE: Senator Bartlett, can the candidates stand at the polls with a sign with their name on it like a big placard?

SENATOR BARTLETT: Yes, they may.

SENATOR ROBERGE: Can someone else stand with a sign for a candidate other than the candidate?

SENATOR BARTLETT: Yes they can as long, as they're not within the corridor.

SENATOR ROBERGE: Right, and how about car tops, would that be allowed?

SENATOR BARTLETT: There's nothing in here with car tops. The only thing that this bill does is establish a corridor. It did away with the entire bill up until that time. It's my understanding that the sponsors intent was that people be able to vote without interruption.

SENATOR CHANDLER: Senator Bartlett, I'm curious about what would happen in one of my towns in my district, and that's Antrim. They vote in the town hall which sits right up to the sidewalk and if there was going to be a hundred foot corridor which direction would the corridor go in?

SENATOR BARTLETT: Being a very liberal minded person, I would put it in both directions.

SENATOR CHANDLER: A hundred in each or fifty in each.

SENATOR BARTLETT: A hundred in each.

SENATOR CHANDLER: Well, that's two corridors.

SENATOR BARTLETT: Well, if you started it together that's like a T.

SENATOR PODLES: Senator Bartlett, could you tell me if anywhere here, who's going to do the enforcement?

SENATOR BARTLETT: The person that does the enforcement of all these election polling places is the moderator at the location. He can call in police if he so desires.

SENATOR PODLES: Does it say that in the bill?

SENATOR BARTLETT: No, it's in the law.

SENATOR WHITE: Senator Bartlett, I'm impressed with this piece of legislation and impressed that you feel a corridor is necessary so that the voters can pass in and vote and be unattacked by these terrible politicians as they campaign at the polls. Would you believe that I have the same problems sometimes when I try and come and vote in the Senate to get by all the lobbyists out in the corridor and I just want a little ten foot wide corridor to get through just to come in and sit down?

SENATOR BARTLETT: Senator White, your question is well put and if you will converse with any lobbyists as you go out through there today you will understand that the Senate President has informed them that when they see Senator White coming through to make room, so that there will no problem in the future. Do you have any other questions that I can try to answer for you?

SENATOR WHITE: That's it, thank you.

#### AMENDMENT TO SB 83

Amend the bill by replacing all after the enacting clause with the following:

1 Prohibiting Distribution of Campaign Materials at Polling Place. RSA 659:43 is repealed and reenacted to read as follows:

659:43 Distributing Campaign Materials at Polling Place.

I. No person who is a candidate for office or who is representing or working for a candidate shall distribute or post at a polling place any campaign material in the form of a poster, card, handbill, placard, picture, or circular which is intended to influence the action of the voter within the building where the election is being held.

II. No person who is a candidate for office or who is representing or working for a candidate shall distribute any campaign materials or perform any electioneering activities or any activity which affects the safety, welfare and rights of voters within a corridor 6 feet wide and extending 100 feet from the entrance door of the building where the election is being held.

III. Whoever violates any of the provisions of this section shall be guilty of a violation.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

SB 93, Relative to reorganization. Inexpedient to Legislate. Senator Dupont for the Committee.

SENATOR DUPONT: SB 93 was an attempt on my part to repeal the statute that sets up the joint committee on reorganization. Having gone through the process, I've come to realize that reorganization comes best from within the organization rather than directly from the legislature. The committee however, had a problem coming up with specific language that would just accomplish that without trying to remove some of the authority that's already been granted under the reorganization statutes so that's why it's inexpedient to legislate.

Adopted.

SB 137, Relative to voting in state and presidential primary elections. Ought to pass with Amendment. Senator Stephen for the Committee.

SENATOR STEPHEN: This bill as amended would merely allow the Secretary of State to implement the recent United States Supreme Court decision in the Secretary of State of Connecticut versus the Republican Party of Connecticut. If a party adopts a rule allowing undeclared voters to vote in a primary and notifies the Secretary of State of this, the Secretary of State will have a method or plan by which he can implement this vis-a-vis, the cities and towns are moderators.

Both party chairman presently state that they have no desire to adopt such a rule. But with this bill in the law the Secretary of State would be prepared for any future problems. This simply states that in a primary election if you choose either party and you wish to go back to your status, instead of going to the town clerk or the city hall you can do it right there at the election poll.

#### AMENDMENT TO SB 137

Amend the bill by deleting section 3 and renumbering section 4 to read as section 3.

Division vote called:

15 Yeas

6 Nays

Amendment Adopted

Senator Stephen offers Floor Amendment

SENATOR STEPHEN: You have in front of you a floor amendment that has to do with "none of the above". All this floor amendment does is omit the delegate going to the winner and that seemed to be the problem on "none of the above". "None of the above" should help to improve the voter turnout and also the public apathy. I think we are depriving people of an option. People will not use the excuse that they did not go to the polls because they didn't care for "none of the above". This doesn't change anything at all, there is no negative on choosing "none of the above". I think that if we can add to have a higher vote turnout anything would be appropriate and this seems to be appropriate.

SENATOR BARTLETT: Is this consistent with your discussion in the Executive Departments regarding the amendment that you wish to present to the body?

SENATOR STEPHEN: Senator Bartlett I at first, you know introduced the "none of the above", and wanted that in there.

SENATOR BARTLETT: Did you not indicate in committee that you wished this not only to apply to the presidential primary but the entire state election?

SENATOR STEPHEN: Yes, I did.

SENATOR BARTLETT: Can you point out to me in this amendment where you're addressing your concerns that you had in committee.

SENATOR STEPHEN: The bill does say state elections also. But the amendment, I guess, does not say that. This simply says the presidential primary.

SENATOR BARTLETT: I understand that two states have adopted this, Nevada and Wisconsin. Have either one of those states seen an appreciable increase in votes?

SENATOR STEPHEN: I believe, Senator Bartlett, that Nevada adopted this in 1975 and it has worked since then.

SENATOR BARTLETT: Senator Stephen, when you say it has worked, do you mean that it hasn't been repealed or it has encouraged more voting?



SENATOR STEPHEN: Senator Bartlett, I believe it had encouraged more voters.

SENATOR BARTLETT: Do you think that when someone votes for "none of the above" that is a responsible way to choose between candidates on a ballot?

SENATOR STEPHEN: I think, Senator Bartlett, it gives a person a choice and it sends a message for people not to use that excuse of, "I didn't care for anyone up there to vote". You can still write in a person of your choice and I don't see any harm in "none of the above". There's no negative.

SENATOR BARTLETT: You realize that many of these towns count these ballots by hand and that they go to late hours and if you put this into place you'll be placing an additional burden upon the communities and towns that count something which really is not going to be in place or have any effect upon the election.

SENATOR STEPHEN: Well, I'm sure it will have some effect but also we've changed many laws and people have adapted to it so I think this is a good issue for the people.

SENATOR HOUNSELL: I rise in opposition to the floor amendment and I'm going to vote continually until this bill is, hopefully, finally inexpedient. The reasons are this: I understand, Senator Stephen, the positive side of doing this and I think that they have merit. However I have to look at history to a degree. I see that in history since the New Hampshire primary is the first in the nation's presidential primary, it was established that New Hampshire has found themselves in a very opportune time to declare in a powerful way its endorsement of the next president. I don't need to note for anyone to date, since that conception, we've never been wrong. We may have ended up with a president that we weren't all that happy with but we've always been able to see through the candidates and to make the good choice.

I think that the implication of "none of the above" is to state to the people those who have declared a candidacy aren't worthy. That could be a choice, but I would also say that the turnout determines that, the voter turnout. To have "none of the above" in there is almost a statement, to me anyways, to say we don't want to elect the president. I think that we've got a good thing going in New Hampshire with the first in the nation primary and I know that before I got here the General Court made one of the wisest moves that I

think it's made in recent history and that is to preserve that, to move it ahead every time it can. I think that this bill dangerously hurts that potential success and for that reason and that reason only I oppose it.

SENATOR BARTLETT: Senator, do I understand what you're saying to be that if twenty or twenty-five percent voted for "none of the above" in the presidential primary, do you feel that this would diminish the value of the primary being in the State of New Hampshire?

SENATOR HOUNSELL: I certainly do and that's my fear, sir.

SENATOR MCLANE: Senator Hounsell, would you agree with me that probably in an effort to get apathetic voters to the polls as the reason for passing this bill that your definition for the most apathetic voter would be someone that would take the trouble to get to the polls and then vote for "none of the above"? It seems to me it's encouraging apathy.

SENATOR HOUNSELL: I feel that what the thing does is it goes beyond the apathetic voter. I have always voted, ever since I was 18 and got the right, that was the year that they made it possible for me to vote. I really thank people for becoming involved. I don't think we have to do things like this to get people involved. If people are interested, they'll turn out, and I think that we have enough systolic expertise and enough pollsters so that we can say well, it was a low turnout and that is a statement to the people disenchanted with any of the above.

SENATOR JOHNSON: I rise in opposition to the floor amendment and I do so with a bit of reluctance there, knowing that the objective that Senator Stephen has if it is, indeed, to increase voter turnout. On the other hand, we do have a mechanism right now that could overcome the situation being described and that is write in votes. If people don't like the names on the ballot they have today the opportunity to write in their name or anybody else's name and that could be construed as a vote for, literally, "none of the above".

SENATOR STEPHEN: Senator Hounsell, do you believe that the issue "none of the above" would decrease the voter turnout?

SENATOR HOUNSELL: I think there's that possibility. I think the turnout is based on the quality of the candidacy, not by a move like this.

SENATOR STEPHEN: What negative do you find in this?

SENATOR HOUNSELL: The negative in this is that the people do consistently turn out to vote. Even in some instances that I know of, I know people who take the time on snowy days to get dressed, to hobble out into the cold and ice and snow to get to town meeting and to vote for a friend who's running on a poll for their hundredth time for town clerk and I admire that. I don't think New Hampshire has to get involved with this type of legislation to take what has traditionally worked in New Hampshire and I understand, Senator, your concern for the low turnout and I commend you for it. I commend you for bringing it to our attention, to the people's attention, but I don't think this will do the positive thing that you're striving for. I respectfully oppose this.

SENATOR STEPHEN: Thank you Senator, but if you admire me for doing this, maybe this is a message that we can send to people to turn out to vote. Maybe this is a start.

SENATOR HOUNSELL: If you want to do another amendment where you do a Senate Resolution encouraging people to vote, I'd be happy to go on that as a co-sponsor.

Senator Stephen requested Roll Call.  
Senator Blaisdell seconded.

Those in favor: Senators Bond, Heath, Disnard, Blaisdell, White, Pressly, Charbonneau, Stephen, St. Jean and Preston.

Those opposed: Senators Hounsell, Freese, Hough, Dupont, Chandler, Roberge, Nelson, McLane, Podles, Johnson, Bartlett, Torr, Delahunty and Krasker.

10 Yeas

14 Nays

Amendment failed.

SENATOR WHITE: I rise in opposition to the bill before us. I'm afraid that what it really will do, it will break down the two party system that we have in the State of New Hampshire and I think if we allow this to go forward that it will be a very difficult thing for either party to determine where their people are and it will further inhibit people staying with one party or another. I really believe in the two party system and I fear that this is a vote against the two party system.

SENATOR HEATH: I, likewise, rise in opposition and I think it basically destroys the two party system and it lets those people who choose not to be associated with anything so evil as a political party

to come in and nevertheless help dictate the candidates of the political party. I supported the bill early to get it on the floor because I believe the "none of the above" should be an option and I'm sorry that this body and its temporary lack of wisdom was afraid that they might be beaten by people voting for "none of the above". That having failed, I really think the bill as it is at this point would be disastrous for the two party system and I would urge people to kill it.

SENATOR BARTLETT: Having served on the committee and listened to the Secretary of State and Senate council, they tell us it's a Supreme Court decision as indicated that we shall do this to conform with their decision. Now it's my understanding, that the State of New Hampshire, that we don't necessarily follow the Supreme Court decisions. So my statement is, we passed it out of committee because our best information said that this would allow us to comply with the Supreme Court decision in our country. How you vote on the floor regarding that is your own conscience.

SENATOR NELSON: Senator Bartlett, is there a similar bill to this on the House side?

SENATOR BARTLETT: I'm sorry, Senator Nelson, I've been quite busy with the Senate bills and I have not taken a look at the four or five hundred bills over in the House.

SENATOR MCLANE: I don't quite understand the Supreme Court's reasoning in saying this. Is it because over a third of the voters are independents? And this disenfranchises them if they cannot vote in the presidential primary?

SENATOR BARTLETT: Far be it from me to be a champion of the courts, but it is my understanding that we shall offer the people an opportunity to vote and they shall be able to do this if the parties agree. You cannot go into a polling place and automatically pick up, as an independent, a democrat or republican ballot unless the party has in writing, informed the Secretary of State that they will allow the independents to do that. So, the option is with the party and if the democrat party agrees to do it and the republican party does not agree to it, then anyone who is independent may go in and ask for a democrat ballot, be given the ballot. If they ask for a republican one and the republicans didn't write to the Secretary of State prior to that they could not participate in the republican primary.

SENATOR MCLANE: Wouldn't you think that if a third of the voters were independent and this bill allowed them to vote in a primary on either side, that this would greatly increase the voter turnout in each election?

SENATOR BARTLETT: Would you believe that I'm against the bill but I reported it out because I felt the Supreme Court said that that should be done and I didn't want the State to be in violation of a Supreme Court decision.

Senator Chandler moved to substitute Indefinite Postpone.

Senator Chandler requested Roll Call.  
Senator Heath seconded.

Those in favor: Senators Hounsell, Heath, Dupont, Chandler, Roberge, White, Charbonneau, Podles and Delahunty.

Those opposed: Senators Bond, Hough, Disnard, Blaisdell, Pressly, Nelson, McLane, Johnson, Stephen, Bartlett, St. Jean, Torr, Preston and Krasker.

9 Yeas

14 Nays

Motion failed

Question: Ordered to Third Reading.

Adopted.

SB 138, Relative to sessions for correcting the checklist. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill was a request from the Secretary of State's office. It applies only to town offices. There are two small changes. On the first page at the bottom it clarifies the dates so that it will be clear to the town moderators and the voters as to when it will take place. On the second page, in bold print, it again just clarifies so that all town officials and people voting will know exactly when the session will take place. Thank you very much.

SENATOR BOND: In the committee was the question raised as to whether or not there should be an appropriation with this since it's a mandated program for the towns and will require us to reimburse them for the expense of the additional supervisor's time?



SENATOR PRESSLY: The explanation given at the committee was that there will be no extra meetings. When the meeting takes place it specifies which date, it does not increase the numbers at all, it only clarifies when it should happen.

SENATOR BOND: I based my question on the analysis which says the bill also adds two additional days for supervisors to meet.

SENATOR PRESSLY: We did ask that question. The explanation that was given to me is this; that today there is a situation where there are still a few towns that have non-partisan elections. So the two sessions, each town will only have one session and the reason there are two because the date will apply differently to a town that is non-partisan than to a town that is partisan and the effort is on the Secretary of State's part, the effort is to make sure that the session is compatible with the caucus that takes place. Each town will still have one session, the language says two in order to accommodate to the differences between the towns and their status. That was the explanation that was given to me and to the committee by Mr. Ambrose and I welcome other committee members to explain it further. But we were lead to believe that this, in fact, would assist the town moderators and the town clerks, that they will not have any more but the language helps them in determining when.

SENATOR BARTLETT: Senator Pressly, is it not true that this legislation defines the Saturday in which one of the two days must be held and that the analysis is incorrect as on the front page.

SENATOR PRESSLY: That is my exact understanding.

Adopted. Ordered to Third Reading.

SB 139, Relative to election law dates. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: This bill is really more of a housekeeping than anything else. Instead of giving the range of dates dealing with elections, that is such and such will take place at least 20 days before election and 40 days after election, it picks a specific day namely the fourth Tuesday before elections, because some people were confused by the other method. Did you count holidays and Saturdays and Sundays? This should unify and simplify the election dates.

Adopted. Ordered to Third Reading.

SB 177, Relative to campaign financing. Interim Study. Senator Stephen for the Committee.

SENATOR STEPHEN: This is a nice idea but it needs more implementation. It's a good concept but it should be referred to interim study for more study.

Adopted.

SB 208, Adopting the uniform commercial code article 2 A leases. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 208 is an additional bill that deals with the uniform commercial code. Earlier on in this session we passed a number of bills that basically brought state law up to compliance with the uniform codes that have been adopted by many states and this is an addition that takes care of leases and brings our statutes in compliance with what other states are presently doing.

Adopted. Ordered to Third Reading.

SB 224-FN, Relative to licensing estheticians. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: SB 224-FN extends authority to the board of barbering and cosmetology to licensing and regulate the practice of estheticians. It also establishes the educational and training requirements for estheticians to have four years of high school or its equivalent, seven hundred and fifty hours of training over a period of twenty weeks at a board approved school and passage of an examination by the board. An esthetician gives facials, applies make-up, may provide skin care treatment in addition to providing care and treatment related to beautifying upper parts of the human body. It is a more specialized area of cosmetology and this legislation is, in essence, a consumer protection bill. Without this legislation, any individual, whether qualified or not could set themselves up as a skin care specialist. Other states have similar legislation, including both Massachusetts and Vermont, and the Executive Departments committee recommends that you vote as ought to pass.

#### AMENDMENT TO SB 224-FN

Amend RSA 313-A:2, I as inserted by section 6 of the bill by replacing it with the following:

I. There shall be a board of barbering, [and] cosmetology, and esthetics consisting of 7 members; including [3] 2 licensed barbers, 3

licensed cosmetologists, one licensed esthetician, and one public member, each to be appointed by the governor, with the approval of the council, to a term of 5 years. No member of the board shall be appointed to more than 2 consecutive terms. Only board members provided for in this paragraph shall have the authority to vote in board determinations.

Amend the bill by replacing section 7 with the following:

7 Board; Meetings. Amend RSA 313-A:2 III, IV and V to read as follows:

[or], cosmetology, or esthetics services or an activity directly related to such professions, including the representation of the board [of either profession] or any of such professions for a fee at any time during the 5 years preceding appointment.

IV. Members shall annually elect, from among themselves, a chairman and secretary.

V. The board shall hold at least [4] 6 regular meetings each year. Special meetings may be called at such times as the rules of the board may provide. A quorum of the board shall consist of no fewer than 5 members. All meetings of the board shall be open to the public, except when the board conducts an executive session under RSA 91-A.

Amend RSA 313-A:9, III as inserted by section 12 of the bill by replacing it with the following:

III. Have completed [the second year] 4 years of high school or its equivalent. The board shall accept junior college or college transcripts of the applicant as proof that the applicant has fulfilled the educational requirements of this paragraph;

Amend RSA 313-A:10, III as inserted by section 13 by replacing it with the following:

III. Have completed [the second year] 4 years of high school or its equivalent. The board shall accept junior college or college transcripts of the applicant as proof that the applicant has fulfilled the educational requirements of this paragraph;

Amend RSA 313-A:11-a as inserted by section 14 of the bill by replacing it with the following:

313-A:11-a Qualifications; Estheticians. To be issued an esthetics license by the board, an applicant shall, in addition to satisfying the requirements of RSA 313-A:10, I, II, III and VI, have completed a

course of at least 750 hours of training extending over a period of not less than 20 weeks in a school approved by the board and have passed an examination conducted by the board to determine fitness to practice esthetics. Estheticians who have practiced professionally in this state for a period of at least 3 years prior to July 1, 1987, and who have satisfied the requirements of RSA 313-A:10, I, II, III, and VI and the training requirements of this section shall not be required to take the examination provided for in this section to be eligible for licensure under this chapter.

Amend RSA 313-A:23, II as inserted by section 22 of the bill by replacing it with the following:

II. The provisions of this chapter relative to cosmetology or esthetics shall not be construed to apply to the following persons:

- (a) Licensed barbers engaged in their usual occupation.
- (b) Persons engaged in behalf of a manufacturer or distributor solely in demonstrating the use of any machine or other article for purposes of sale, without charge to the person who is the subject of such demonstration.
- (c) Persons engaged in the practice of cosmetology or esthetics in a charitable or benevolent institution, where such practice is carried on solely for the benefit of the residents of such institution.
- (d) Persons conducting programs [for cosmetological] relating to demonstrations of cosmetology or esthetics sponsored by a recognized cosmetological or esthetical organization.
- (e) Persons licensed as masseurs or masseuses under RSA 328-B.
- (f) Persons licensed as chiropractors under RSA 316.
- (g) Persons registered as physical therapists or physical therapist assistants under RSA 328-A.

III. The public member shall be a person who is not, and never was, a member of the barbering [or], cosmetology, or esthetics profession or the spouse of any such person, and who does not have and never has had, a material financial interest in the provision of barbering

Amendment Adopted. Ordered to Third Reading.

Senator Charbonneau wished to be recorded as taking Rule 42.

SB 67, Increasing the local share of hazardous material transportation fund fees allocated to local emergency response programs. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill increases the share of hazardous material transportation penalties and fees going to state, local

and regional emergency response programs from the current 5% to 15% and reduces the state's share for the hazardous waste clean up fund from 75 to 65%. The bill eliminates the requirement that the distribution be made annually and makes it clear when the new distribution will apply. It came out of Finance as ought to pass.

SENATOR NELSON: Senator Delahunt, who will be impacted by this bill? We are making major changes in the way the money is allocated to the towns.

SENATOR DELAHUNTY: The total money involved, I think, Senator Nelson, is about \$12,000. The distribution was broken down and explained to us by the various commissions, like the firefighters and the public safety. Are you looking for the distribution?

SENATOR NELSON: The allocation.

SENATOR DELAHUNTY: The process, I can't explain to you, but it was fully explained to us with the whole committee there and it was evidently satisfactory to them and I'm not familiar with the process that you had in the past.

SENATOR BARTLETT: Basically and previously, 75% went to the State of New Hampshire and 5% went to the locals. What this does is give an additional 10% to the local fire departments and the state and regional emergency response to buy equipment because, today, we have more and more hazardous material travelling around the state and it really doesn't make much sense to send a local volunteer fire department or a local paid fire department to a scene of a hazardous waste or a chemical fire or roll over or something like that without being properly equipped. It's probably 25 to 30,000 in the end of this that would go back to the cities and towns and it would properly equip the local cities and towns. We think it's a good bill and it passed the Senate last year.

SENATOR NELSON: If you would just clarify for me why you are taking 10% from the State of New Hampshire and putting that 10% obviously down to the Department of Safety.

SENATOR BARTLETT: It isn't really going to the Department of Safety, it's going to the state, local and regional. Presently there's not enough money down there to fund proper equipment for the lower levels. We've been assured by the Department of Safety that this money will be transferred to the local fire departments and local emergency response.



SENATOR NELSON: What will this do Senator Bartlett to the New Hampshire Hazardous Waste Clean-up fund?

SENATOR BARTLETT: It will take 10% of the fees out of it, but there is apparently sufficient money in there now and all the state departments agreed that this was a proper distribution of funds.

SENATOR NELSON: Let me try to rephrase that question if I may, sir. How much money is there now in the New Hampshire Hazardous Waste Clean-up fund? Do you have any idea of that?

SENATOR BARTLETT: I have no idea, but I would just like to point out that we're not touching super fund money or anything like that. We're talking about truck roll overs, chemical fires on the street. If a chemical truck rolls over in your community, the fire department responds. Now if they don't respond with the air packs, Scott air packs and things like that, they're not properly equipped to deal with this. Now, you wouldn't want to send one of your firemen down to a chemical roll over. They all have little signs on them that tells you to call an 800 number and they tell you what the chemicals are in there and until you know what the chemicals are you don't know how to protect yourself. So, if you want to send your firemen into a toxic area improperly equipped, then vote against it.

SENATOR NELSON: Could I make the assumption Senator Bartlett, that we would now be reducing money from the New Hampshire Hazardous Waste Clean-up fund, based on this bill?

SENATOR BARTLETT: You can make that assumption, but you must also remember that when the locals respond, the state responds at the same time. Senator Charbonneau who sits to your left is one of those people that is on the committee and she realizes the value of this bill.

Adopted. Ordered to Third Reading.

SB 223, An act authorizing a New Hampshire technical institute to security force. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill was requested by the police in Concord and by the Technical Institute. It allows the increasing number of security people at the Technical Institute to have temporary powers of arrest until the Concord police can get there. Concord's chief of police was there to support the bill. Obviously the Technical

Institute was in support, after we had changed the safeguard so that the arrest would be in accordance with constitutional practices and the arrest would last just as long as until the Concord police got there. The bill is ought to pass.

#### AMENDMENT TO SB 223-FN

Amend RSA 188-F:34 as inserted by section 1 of the bill by replacing it with the following:

188-F:34 Authority. All security officers of the campus security force shall have the power to detain any person who they have reasonable grounds to believe has committed any offense under the laws of the state, on the premises of the New Hampshire technical institute as long as necessary to surrender the person to a peace officer, provided such detention is accomplished in a reasonable manner.

Amend RSA 188-F:35, I, as inserted by section 1 of the bill by replacing it with the following:

I. The president of the New Hampshire technical institute shall require that all employees hired as campus security officers shall complete a program of police training meeting standards as established by the New Hampshire police standards and training council pursuant to RSA 188-F:26 and as appropriate to such officers' exercise of limited police powers. Such program shall be one that is prescribed for part-time police officers.

Amendment Adopted. Ordered to Third Reading.

SB 79-FN-A, Providing for 40 new troopers for the division of state police and making an appropriation therefor. Inexpedient to Legislature. Senator Torr for the Committee.

SENATOR TORR: SB 79 would have provided 40 new state troopers for the Department of the State Police. The recommendation of one of the sponsors was that we make this inexpedient and the concurrence of the committee and it will be addressed in the operating budget.

SENATOR WHITE: Senator, when this does come back, I had heard earlier that the different policy committees would be handling these, will that go to the Transportation Committee or will it go to some other committee in regards to new positions?

SENATOR TORR: When we're addressing it in the operating budget, we'll address it. I'm not sure if the policy committees will be involved. I have heard that they would be originally, but I'm not sure that that is true.

Adopted.

SB 91, Establishing a committee to evaluate the foundation aid formula. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: Senate Finance amended SB 91 as a result of some concerns that the Finance Committee started to develop relative to studies. We felt in Finance that the scope of the study really wasn't effectively laid out in the bill. As a result of that, we've set up a mechanism whereby the study committee will, as its main goal, determine what exactly they intend to study relative to the Augenblick formula and then report back to the legislature and the Governor by January 1, 1988. It would be the intention of the sponsor of the bill to have a piece of legislation introduced that would provide the mechanism for the funding in an appropriate amount.

#### AMENDMENT TO SB 91

Amend section 1 of the bill by replacing all after paragraph I with the following:

II. The members shall choose a chairman from among the committee. The members of the committee shall serve without compensation, except that the legislative members shall receive mileage at the legislative rate when attending to the duties of the committee. The department of education shall provide administrative services as requested by the committee.

III. The committee shall set the criteria for studying the effectiveness of the foundation aid formula contained in RSA 198:27-33. The committee shall submit a report by January 1, 1988, to the governor, the executive council, the speaker of the house of representatives, and the president of the senate.

Amend the bill by replacing all after section 1 with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

SB 99-FN, Establishing a study committee to determine whether the department of transportation has fully implemented the legislative directives of the general court. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 99 is a bill that basically establishes a study committee to take a look at the Department of Transportation to determine whether or not the department is functioning as the legislature intended. Last year when the Department of Transportation was reorganized, one of the things that became very apparent to us in the committee that was involved in it was that the Department of Transportation, at that time, was not operating along the structural guidelines that the legislature had previously passed dealing with the structure of the department. It's such a large department and we felt the bill had merit and ought to be moved on to help the department meet its legislative responsibilities.

Adopted. Ordered to Third Reading.

SB 107-FN-A, Relative to the New Hampshire state airport system plan and making an appropriation therefor. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: The bill does exactly what it says it does. It appropriates \$20,000 of state money to be matched by \$180,000 of federal funds to update the airport system master plan which had not been done ten years ago. The last time it was done was ten years ago. We have to do it if we are going to continue to avail ourselves of federal aid or grants. The policy committee is in agreement with this bill and the committee on Finance feels that the appropriation of \$20,000 of state money is warranted and we recommend it ought to pass.

Adopted. Ordered to Third Reading.

SB 183-FN, Relative to coverage for mental or nervous conditions. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: SB 183 adjusts the basic level of coverage, upgrading the minimum amount of coverage for mental and nervous conditions which must be provided to certified policy holders by insurers. It also allows the commissioner to review and adjust the minimum benefit amounts not less than every two years.

This is not a new mandate, but simply raises the minimum standards set by statute in 1975. Currently Blue Cross/Blue Shield of New Hampshire provide benefits over and above the minimum which was set in 1975. This bill primarily impacts insurance companies based out-of-state. The current impact on our citizens is that their treatment is either not complete or they fall deeply in debt with out-of-pocket expense if they can afford it or the taxpayers have to pick up the cost at the local level. The Insurance committee urges you to vote ought to pass.

#### AMENDMENT TO SB 183-FN

Amend RSA 415:18-a, VII as inserted by section 3 of the bill by replacing it with the following:

VII. The commissioner may review and adjust the minimum benefit amounts in paragraph IV. Such adjustments shall be based upon the medical price index or other appropriate index. Such adjustments shall take effect 60 days after notification of each insurer subject to RSA 415:18-a, IV.

Amend RSA 419:5-a, III-b as inserted by section 5 of the bill by replacing it with the following:

III-b. The commissioner may review and adjust the minimum benefit amounts in paragraph III. Such adjustments shall be based upon the medical price index or other appropriate index. Such adjustments shall take effect 60 days after notification of each corporation subject to RSA 419:5-a, III.

Amend RSA 420:5-a, III-b as inserted by section 7 of the bill by replacing it with the following:

III-b. The commissioner may review and adjust the minimum benefit amount in paragraph III. Such adjustments shall be based upon the medical price index or other appropriate index. Such adjustments shall take effect 60 days after notification of each corporation subject to RSA 420:5-a, III.

Amendment Adopted. Ordered to Third Reading.

CACR 21, Relative to rulemaking authority. Providing that the general court may delegate regulatory authority to executive branch officials, but such rules may be disapproved by the general court. Ought to Pass. Senator St. Jean for the Committee.



SENATOR ST. JEAN: Internal Affairs committee met and felt that this is a much needed piece of legislation. What it does is deal with the administrative rules committee. Currently a department or agency, even after objection by the administrative rules committee, can implement a rule the legislature is against. This would empower our administrative rules committee to vote down rules that they don't feel are in the best interest of the citizens of the state and I feel it's a much needed piece of legislation.

SENATOR DISNARD: Senator St. Jean, who gives the Department of Education the authority to make rules? Would this mean that in the past that the state board of education did not make those rules that the rules committee objected to?

SENATOR ST. JEAN: You're right Senator, it is, and that's why it's needed.

SENATOR JOHNSON: I'm trying to get tuned in on this, Senator St. Jean, and I'm looking on the front page here now and would this overriding authority be granted, it appears here that it would be granted to the general court, meaning the Senate and the Legislature, and it does not mean a committee of the legislature does it?

SENATOR ST. JEAN: You're correct.

SENATOR JOHNSON: The general court.

SENATOR ST. JEAN: I said the administrative rules committee because they deal with rules and they are legislative arm that deal with rules from departments and agencies but yes it grants it to the legislature.

SENATOR JOHNSON: The full body.

SENATOR ST. JEAN: You're correct, Senator.

SENATOR BARTLETT: Senator St. Jean, does this not in fact put this out to the voting public to decide whether the legislature is going to make the rules or the department heads?

SENATOR ST. JEAN: That's just what it does Senator Bartlett.

The chair requested division vote.            23 Yeas            0 Nays

Adopted. Ordered to Third Reading.

SB 110, Requiring the publication of certain opinions of the attorney general. Interim Study. Senator St. Jean for the Committee.

SENATOR ST. JEAN: The Internal Affairs met on SB 110. As the testimony from Senator Hounsell developed, Attorney Jeff Howard from the Attorney General's office got up and explained that the opinions that deal with state boards and commissions are now being made available to all interested. A letter is going to go from the attorney general's office informing the legislature, state agencies, boards and everyone else that's interested in their opinions so they will be circulated. So we felt that there was really no need for this particular legislation at this time. If it's ever needed, we've sent it to interim study and in a couple of years we can bring it back.

SENATOR HOUNSELL: As the sponsor of this, I do endorse the committee's report. I am very happy, extremely happy, that the attorney general sent a representative over to the hearing and says that they are going to work to make those opinions available so that we can consider those as we consider various joint rules. I want to publicly thank the attorney general for his willingness to help out in this.

Adopted.

SB 119, Requiring identification badges for the press while in the state house or legislative office building. Inexpedient to Legislate. Senator St. Jean for the Committee.

SENATOR ST. JEAN: The Internal Affairs committee met on SB 119. While we felt it was well intended legislation, it came in response to an incident that occurred back in January where an individual was looking for a better seat closer to where the action was. We felt this could be better handled between the Speaker of the House and the President of the Senate. Although I certainly would like to see some reporters wear badges, we didn't feel that at this point this was needed. Also David Dow, who's in charge of security here in the Senate amongst other things, is very good at keeping those without proper identification off of the Senate floor. For that reason we moved inexpedient to legislate.

SENATOR WHITE: This bill was put in after, as Senator St. Jean has mentioned, the incident that took place on the House floor. After that there was an article in the Union Leader by Donn Tibbetts indicating that there was a problem in communications. Well, I felt that there was a problem in communicating because the press knew

that the man was there and the press knew that he was going to disrupt the House proceedings. It was because of that that this bill was put in. I found it particularly offensive that when I went to some members of the press they said, "yes, we knew that he was there but he was not a dangerous person so we let this go forward". I think it behooves and hopefully, by bringing this bill in that, perhaps, the press will alert the Sergeant-At-Arms that there is a person there that does not belong on the floor of the House. Since the bill was put in, the House has taken measures that when they are on the floor that the press is identified and I think probably it has been taken care of but at the time the bill was put in nothing had been done. I felt that it behooves the press to police themselves and I hope that they would in the future.

Adopted.

SB 126, Prohibiting lobbyists from occupying a certain area of the New Hampshire state house. Inexpedient to Legislate. Senator St. Jean for the Committee.

SENATOR ST. JEAN: It was the feeling of the committee that again the President of the Senate and the Speaker of the House could control that area. The area we're speaking of is right outside the door and when we try to get into the Chamber those people with the orange badges are eagerly there to greet us and explain to us what our particular position should be. We discussed earlier in the day a six foot by a hundred foot wide corridor and as Senator White mentioned, we're only talking about a ten foot wide corridor. We did feel that the two presiding officers could handle that and if it becomes a problem-the lobbyists certainly are there to influence us in every way that they can-if they get to become a hindrance I'm sure that between the two presiding officers we can handle that. Perhaps talking to them would be better than filing legislation in this manner. For that reason we deemed it inexpedient to legislate.

SENATOR WHITE: I have passed out a clipping from Connecticut and the metropolitan edition. I would just like you to know that it was a lobbyist that sent me this clipping and he felt that I was on the right track. The reason I put it in is because I would hope that the lobbyists don't think that we're going to change our minds at the last minute and, hopefully, they would come to us prior to the vote so that we could at least get in and out without being harassed as we go through. I'm glad to see that, perhaps by putting the bill in, that maybe they will learn to be a little more courteous to the Senators

and I think that's all I'm looking for. Let us get up and down the stairway, let us get in and out of the elevator and let us walk into the Chamber in a dignified manner. Several lobbyists came to me and said that they supported the bill. I will not try and overturn the committee report but I just hope that they realize that, at times, they are offensive.

SENATOR BARTLETT: I think Senator White made a point and I would certainly hope that the lobbyists would respect her point, that it is objectionable when you have other things on your mind to have someone stop you as you're coming into the session and I feel that by the mere fact that she has introduced this legislation that they are now aware of it and we in the leadership hope that we will be aware. If they have some problem I wish that they would come to us. I'm interested to see how well they've handled things down in Connecticut. My problem with Connecticut and New Hampshire is that I don't know how wide and how much space they have in their state house down there to cordon off areas. If we cordon off much here, we won't get up here ourselves.

SENATOR WHITE: Do you suppose if perhaps I was able to have our bills heard on a day other than Friday the 13th we might have had a better result?

SENATOR BARTLETT: That's a good question. All the way driving up here I said, gee, isn't it crazy to be driving on the highway on Friday the 13th. But we had those two months in a row and we really had to do something in the second month.

SENATOR JOHNSON: Senator Bartlett, are you giving reassurance to Senator White that the Senate leadership is going to take some positive action in regards to the intent to this bill?

SENATOR BARTLETT: Senator Johnson, it's my intention to talk to the Speaker. It's a joint area out there and I really think that she has some valid points here and I don't have any quarrel with that. I think the lobbyists should, after hearing this discussion and seeing the bill out there, at least be given the opportunity to try to allow both the House and Senate to get through there without these interruptions that you and I object to and we will certainly try to do that. If not, then we have the power. The Speaker and I are supposed to control the building. We have the power to control the building and we will institute something that will make it convenient.

Adopted.

## RESOLUTION

Senator McLane offered a Resolution to Coach Bill Haubrich, Jr.

## COMMITTEE REPORTS

SB 190-FN, Relative to financial disclosure by appointed officials. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 190 is a fairly straightforward and simple bill. It requires that any appointed official in a salaried position has to comply with the same disclosure statements that the legislative and other elected officials in the state have to comply with. It sets down a requirement for reporting that is the same as our requirement and, basically, it encompasses roughly 200 salaried and appointed officials in the state.

Adopted. Ordered to Third Reading.

SB 74-A, Relative to the port authority and making an appropriation therefor. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: This report will be brief for a couple of reasons which I shall point out. The policy decision of the committee is very explicit in the committee report of inexpedient to legislate. There was no opposition among the committee members. It was a four to nothing vote that I am aware of. As a right to the other Senators and as a courtesy to the sponsors who've asked further consideration of this, there will be a motion, I understand, of ought to pass so this bill could be referred to Finance and you'll have a more detailed report at some future date.

Senator Krasker moved to substitute Ought to Pass.

SENATOR KRASKER: The port authority in Portsmouth is a key cog in New Hampshire's transportation network. It's a deep water port; it's the only one in the state; and, up until now, it's really been in a Catch-22 situation. It hasn't been adequately funded, so it's never been able to realize its potential, and because it hasn't been able to realize its potential it hasn't been adequately funded. There was a consulting firm that was called in to study the port. It had recommendations which a committee, drawn from a cross-section from the community, studied. One of the recommendations was not to sell the port, but to develop a containment area that would allow



the construction of a second berth slightly up river of the present pier. That's a real need of the state port additional berthing facilities. Part of this money for engineering studies has already been provided by the legislature. This would provide an additional \$600,000 so that the engineering studies for this containment area could be completed. It is a financial matter that I hope this Senate will allow it to go to the Finance Committee for its approval.

SENATOR TORR: I'd like to support Senator Krasker's motion that's on the floor, ought to pass. The port authority is an asset that the state has basically overlooked. We have new management down there. There's an opportunity for the state to take advantage of that asset and this appropriation that is being put forward needs a look by the Senate Finance committee and I would ask that the Senate concur with that.

Adopted. Referred to Finance under Rule 24.

SB 101, Relative to political campaign contributions by state employees. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Back in 1983 the legislature gave the state employees the right to make political contributions, but in our zeal to protect them, we made a mere requesting of a contribution violation of law. What this piece of legislation does is it corrects that and allows them to be requested for contributions to political campaigns.

SENATOR BOND: Senator St. Jean, doesn't this create a situation where you now have a fine line between deciding what is solicitation and what is coercion? Whereas before, when it said, solicitation, that was very clear. You didn't go and ask for their support.

SENATOR ST. JEAN: It's my sense that what this will do, is it will allow individuals running for office to send a mailing or a fund raising letter to state employees. I think it was the intention back in 1983 to do that, but in fear that somehow it would be coercion, they didn't do that and that's what this corrects, Senator Bond.

Senator Podles moved to substitute Indefinitely Postpone.

SENATOR PODLES: This is very bad legislation. Before it was solicitation and now it's coercion. They can send material through the mail and no one is going to refuse. I would ask you to make this indefinitely postpone.

SENATOR ST. JEAN: Senator, are you familiar with the case of, a couple of years ago, when Mr. O'Flynn was the sheriff of Hillsboro County?

SENATOR PODLES: Yes I am.

SENATOR ST. JEAN: That was a coercion case, am I not correct Senator Podles?

SENATOR PODLES: If I remember correctly, it was Senator.

SENATOR ST. JEAN: Wasn't he dealt a very severe penalty for coercing individuals in his employ?

SENATOR PODLES: Yes he was.

SENATOR ST. JEAN: Don't you think that the courts would deal in the same way for individuals running for public office and actually coercing individuals to give campaign donations to various individuals running for office?

SENATOR PODLES: I think I would disagree with you, Senator, because this clearly states that they can be coerced to giving a contribution and no one, being a state employee, is going to refuse.

SENATOR CHANDLER: I wish to rise and speak in favor of the bill. I'd like to point out that sometimes a candidate running for office will make a mailing to occupant and mails out all in his district to occupant and some of those occupants might be state employees. But he does not mail it directly to them as state employees; he just mails it out to everybody in the district because occupants are voters, too. I think a candidate doesn't really know who gets them and who all the people are in his district. I don't know everybody in my district. I might mail a letter to somebody who might be a state employee and I didn't know he was a state employee even. So, I think this is a reasonable bill and I don't think that anybody getting a letter addressed to occupant would feel he was being coerced and I don't think he would feel that he would have to contribute because the candidate probably didn't even know the fellow got the letter. So I think this is a good bill.

SENATOR PODLES: Would you believe that it doesn't necessarily have to be by mail. Somebody can walk up to you and ask you for a contribution. It doesn't say here that it's by mail or that it's sent to an occupant. You're just assuming that.

SENATOR CHANDLER: Yes, I believe it, but why penalize a candidate who makes a mass mailing because I don't believe he's going to try to put pressure on a state employee to get a contribution and I think that there's a good many state employees who would refuse.

SENATOR PODLES: Senator Chandler, would you show me where in this bill does it say that they will send out material, where does it say in this bill that it's a mailing. Could you tell me where?

SENATOR CHANDLER: No, it doesn't say that, of course it doesn't say that, but that's one of the things that we talked about at the caucus, about making a mailing.

SENATOR PODLES: Senator Chandler, would you agree with me that you cannot assume things, that it has to be right in here? So, you're assuming that it's going to be a mailing, but it doesn't have to be a mailing.

SENATOR CHANDLER: I'm not assuming anything. I'm just saying that what it meant was a possibility that if this bill here said that state employees could not make contributions or they could not be a center of solicitation to them but that doesn't say that but, it doesn't limit it to a mailing. It could be a mailing or it could be personal solicitation or it could be over the telephone. That's not coercion; no it isn't coercion. There's a difference between asking somebody for a dollar than coercion. That's like you're threatening them or something, then threatening them if they say no. That's coercion. But just asking them through the mail, or through the telephone, isn't.

Senator Charbonneau requested roll call.  
Senator Podles seconded.

Those in favor: Senators Bond, Heath, Dupont, Roberge, White, Charbonneau, Podles, Johnson, Delahunty.

Those opposed: Senators Hounsell, Hough, Chandler, Disnard, Blaisdell, Pressly, Nelson, McLane, Stephen, Bartlett, St. Jean, Torr, Preston, Krasker.

9 Yeas

14 Nays

Motion lost.

Question: Ought to Pass.

Adopted. Ordered to Third Reading.

SB 180-FN-A, Relative to restoring the original state house and making an appropriation therefor. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: What this does is it funds the sum of \$125,000 to hire an architect to form a study on the original State House. We had long detailed testimony talking about the State House, which was built in 1758. It's on land over in Strawberry Banke, and it's presently up on cinder blocks. The state owns the building, but it's on private property. We were invited by Senator Krasker to come over and view it and then afterwards go over to her house and have lunch, which I'm sure the members of the Senate would enjoy doing.

I think this is a most worthwhile piece of legislation. Senator Hough, I've already seen the light as the day wears on. There are other State Houses, I think there are five or six state houses, that are currently being rehabilitated throughout the country and this is one. I do stand and applaud those individuals that have brought this to my attention and I think it's a much needed legislation.

#### AMENDMENT TO SB 180-FN-A

Amend paragraph I as inserted by section 2 of the bill by replacing it with the following:

I. The director, division of historical resources, department of libraries, arts and historical resources, with the approval of the commissioner, shall hire an architectural consultant to study and make recommendations regarding the restoration of the old state house in Portsmouth, New Hampshire. The division, in conjunction with the architectural consultant, shall carry out this study which shall include the following:

- (a) A site plan;
- (b) A detailed historic structures report;
- (c) An architectural plan for complete restoration including specifications and drawings; and
- (d) A management Plan.
- (e) A review of possible available federal funds.

Amendment Adopted. Referred to Finance under Rule 24.

SB 222-FN, Relative to increased independence of the public utilities commission consumer advocate. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: What this does, is it defines the role of the consumer advocate. It detaches him and members of his office to the attorney general's office. It's a clarification of his duties and functions and also allows him to hire, I believe, a secretary which has already been filled. We felt that this was a good piece of legislation and warrants passage.

Adopted. Ordered to Third Reading.

SR 4, Relative to high frontier defense system. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: This is probably my favorite bill of the session for a couple of reasons. It's the first bill that I remember since I've been here that uses the word awesome. I don't know who drafted this but I thought that added another dimension to our legislative capabilities and certainly a word that I've never seen before.

Basically it is a bill that sends a message to Congress that we want them to pursue the non-nuclear defense system, so called Star Wars Defense System. It was sponsored by Senator Chandler. The committee heard an extensive amount of highly technical testimony and we felt that the bill had merit and urge your support of this very important bill.

SENATOR DISNARD: Senator Dupont, you're more familiar with this or you wouldn't be introducing it. Reading the newspapers and watching TV it appears that there is quite a discussion by the majority of the people in the Federal Senate and Congress that do not agree that the present nuclear or any type of war, nuclear weapons, or any type of weapon agreement would permit this. Could you help me out in which way to vote? Would this be against any treaty with the Soviet Union at this time?

SENATOR DUPONT: Senator, that I can't tell you because I don't know of what stage the negotiations are at, not being privy to that information. However it's very clear in the last paragraph, if you open to that bill, it says that Congress is hereby memorialized to reject the mutual insured destruction doctrine and pursue the provision non-nuclear defense. So I think that clarifies the issue.



SENATOR KRASKER: This is an awesome question and this is a very complicated issue. I know how thorough your committee is so, I'd just like to ask you, how many days or even hours you've spent studying this issue?

SENATOR DUPONT: If I remember correctly the testimony took a few hours probably on this bill and we deliberated probably a good ten or twelve hours on this. It was a very intense debate amongst the members of the committee because the committee does have people on it that are not of the like opinion when it comes to issues such as this.

SENATOR KRASKER: Thank you for your awesome answer!

SENATOR DUPONT: Can I just make a comment. The committee took a vote and I was nominated to bring this out, I didn't do it by choice!

SENATOR BARTLETT: Senator Dupont, you may remember that we did have an expert witness who was assigned by the Federal Government to review all the print systems and he talked to us at length. As a matter of fact, the more he talked the less we could really understand because he was very technical about it and then he called back a couple of days later and gave us more information and he really thought that this was a good bill and there were very few people who opposed it.

SENATOR DUPONT: Senator, that's true. The testimony was highly technical and all of us were confused by the time he got done but we felt that the merits of the bill still stood.

SENATOR ST. JEAN: Would you believe I was there for the testimony of the individual that the Senate President couldn't remember his name because it was such an enlightening testimony he gave. But what I did get from that was that at best, this high frontier defense system is 90% effective. Would you believe, Senator, for instance, if we had an umbrella that was 90% effective you're still going to get wet! At best, this is going to cost us billions of dollars. Do you really think it's worthwhile at this point to have this high frontier defense?

SENATOR DUPONT: Senator, probably the only thing I could say is that if you were in that portion of the country that the supposedly nuclear missile was coming at and that was one of the 90% that they were able to stop, you'd probably agree that it did have merit.

Adopted.

CACR 20, Relative to size and tenure of Senate. Providing that the Senate shall consist of 36 members and be elected to a 4 year term. Inexpedient to Legislate. Senator St. Jean for the Committee.

SENATOR ST. JEAN: It was the feeling of the committee that by adding the Senators to get us up to 36 members, what we'd be doing is possibly adding one Senator to every committee and also once we do that every Senator that is added is going to have his and her legislation. So, what we're going to do is we're going to compound our problems and if that particular individual is so disposed as Senator Chandler is to file between 35 and 45 pieces of legislation every year, there's no telling what time we'd ever get out of here at the end of the session. So we felt that this was not legislation that we wanted to pass at this point.

SENATOR HOUNSELL: Senator, on another matter that I think relates to it, could you tell me where, without knocking down a few walls, in this precious chamber we might put 12 more Senators.

SENATOR ST. JEAN: Well, I would suspect Senator that maybe we could have like bunk beds only another higher rung of Senators on either side. But I don't think we need any more; it's a nice comfortable group of 24. It's worked well over the years and I enjoy it. I would hate to dilute our power! We may as well be honest about it Senator!

SENATOR HOUNSELL: Thank you sir.

Senator White moved to substitute Ought to Pass.

SENATOR WHITE: This was another unfortunate bill that was heard on Friday the 13th and basically the bill called for two things. First of all to increase the size of the Senate to 36 and secondly to elect them for a four year term. As I sat and listened to the hearing it was my impression that no member thought that we should be elected for a four year term. So, we have had a floor amendment drafted that would eliminate that part of the bill and just increase the Senate to 36 members. I think if we go back to that second bill we heard today, SB 162 I believe it was, which we debated for a good hour and a half and there were objections from the Senator from district 8 because there was only one person in that hearing on that particular bill. I think as we go on from here on to the end you're going to find more and more committees that are only going to have

one and two people sitting and hearing the bills of our constituents. It wasn't necessarily that I felt that we should add one more person to each committee, I don't think that that's a necessity but I do think it's important that we cut down the amount of committees that each person has to serve on. This is a citizen legislature and I think that if we carry just two committees plus all the other committee work that we have to deal with we might get more meaningful legislation and hopefully we could restrain some of those Senators that put in so many bills and wouldn't have quite the work load. The crunch isn't from the Senate bills, the crunch is from the House bills. We will probably be facing at least 400 bills from the House so that we would have a longer time to deal with the Senate bills and we would have more people to spread it around. So, for that reason I have the motion of ought to pass and when that passes then I will offer the amendment that will do away with the four year term.

SENATOR HOUNSELL: Given the need, if we do this, we'll have to re-district the state for new Senators, have you done any work to determine which areas may need a Senator, will Manchester get another or two or more Senators, will Nashua gain or would how would it affect the rest of the other regions of the State as the population shifts to the South the actual numbers, according to the constitutional of representatives from the rural areas, diminish. How will this affect that?

SENATOR WHITE: I don't think actually they would diminish, I think it would still be on a similar par as what we have. For instance, district 10 that Senator Blaisdell represents might be just the city of Keene and then we would have the other towns that he represents being covered by another Senator. So, that I would think that it would offset itself as you went along.

SENATOR HOUNSELL: Well, given that we could break this up in say tiers, of the 12 new ones, where would they be centering? Have you determined that yet?

SENATOR WHITE: You'd get a half of one for each Senate district that's in here so that you'll have the same spread.

SENATOR HOUNSELL: Given a half of one does that mean we may have half baked legislation?

SENATOR WHITE: Only if they were half baked to begin with.

SENATOR BARTLETT: Obviously I'm in opposition to the motion before us. You know we talk about numbers and the numbers always

mean quality and I don't really agree with that. I have been over to the House at 9 o'clock in the morning on a 23 member committee and sometimes they're lucky to find four to five people over there and that's the only committee they serve on. This Senate operates fairly well amongst themselves and you'll find that when there are two people in a committee or three and most times that is because there is another hearing but quite often there are people who just haven't arrived. There are some people that don't like to arrive for 9 o'clock in the morning, 9:30 or 10, and you have the same problem whether you have 24 or 36. We had somewhere around 245 bills this year from 24 Senators, if we had an additional 12 Senators I think we'd be looking near 400, so that we're going to increase the number of bills, not necessarily increase the load for a Senator and I think the Senate of 24 is more responsive to its people. When the Senator from district 11 tells you how the reapportionment are going to be, she doesn't know and I don't, because we're going to talk to one man-one vote census that comes around in 1990 and that the whole place is going to be reapportioned sometime in the future. It may well be that we could have 6 or 7 Senators coming out of Manchester if they include the size of Londonderry or some where else. We really don't know how the State's going to be reapportioned. I think it would be well for us to wait until the population comes out and see how the apportionment is because it would be quite important that the democrats don't get any more than eight seats in here and republicans stay in power!

SENATOR PRESTON: In spite of what the Senate President just said, that my purpose in supporting this bill would be in voting in opposition to the pending motion would be to see if the democrats might not increase their minority to majority in a 24 member Senate.

SENATOR BARTLETT: Senator Preston, I hope that you took my remarks in jest as I hope the presiding officer at the end of the next bill following this will allow us to send out for food as we're all being a little short and I hope we stay in session and continue.

SENATOR PRESTON: Mr. President, I don't understand the question and I'm not going to answer it.

SENATOR BLAISDELL: I leave you on this bill with one thought, if you redistrict it again, I leave you with this; there could be two Blaisdells in this Senate.

SENATOR CHANDLER: I'm against increasing the size of the Senate, very strongly, but I would support the other part of the bill to give us a four year term.

Senator Podles requested roll call.  
Senator Charbonneau seconded.

Those in favor: Senators Heath, Hough, Disnard, White, Pressly, Nelson, Charbonneau, McLane, Johnson, Krasker.

Those opposed: Senators Dupont, Chandler, Roberge, Blaisdell, Podles, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston.

Rule 42: Senators Bond, Hounsell.

10 Yeas

11 Nays

2 Rule 42

Motion lost.

Question: Inexpedient to Legislate.

Adopted.

SB 171-FN, Amending the administrative procedure act. Inexpedient to Legislate. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Internal Affairs met on SB 171 (tape change) 103 and it's in a much better form and he urged that we kill this particular piece of legislation and we concurred.

Adopted.

SB 238, Relative to bail reform. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: SB 238 was requested by the New Hampshire Department of Justice and it's modeled after the federal bail reform act of 1984, almost word for word. It makes changes in the pretrial release and the bail laws. Essentially it outlines more adequate procedures and it tightens the laws with regards to pretrial release and bail pending appeal. Further, the bill mandates specific sentencing for bail jumping, a specific penalty for a crime committed while a person is on bail and it also allows the court to detain an individual before trial. The amendment removes unnecessary language and the committee recommends ought to pass.



## AMENDMENT TO SB 238-FN

Amend RSA 597:6-a, III(b)(1) as inserted by section 3 of the bill by replacing it with the following:

(1) Remain in the custody of a responsible adult, who agrees to supervise him and to report any violation of a release condition to the court, if the responsible adult is able reasonably to assure the court or bail commissioner that the person will appear as required and will not pose a danger to the safety of any other person or the community;

Amend the introductory paragraph of RSA 597:6-a, V as inserted by section 3 of the bill by replacing it with the following:

V. If the bail commissioner, or, if the court after a hearing pursuant to the provisions of paragraph VI, finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, he shall order the detention of the person prior to trial. If the bail commissioner makes such a finding, the person shall be detained pending the hearing described in paragraph VI. In a case described in subparagraph VI(a), a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if the court or bail commissioner finds that:

Amend RSA 597:6-a, VI(a)(2) as inserted by section 3 of the bill by replacing it with the following:

(2) An offense for which the maximum sentence is life imprisonment;

Amend RSA 597:6-a, II as inserted by section 4 of the bill by replacing it with the following:

II. If a person is ordered detained by a municipal or district court, the person may file with the superior court a motion for revocation or amendment of the order. The motion shall be determined promptly.

Amend section 9 of the bill by inserting after paragraph III the following new paragraph:

IV. RSA 597:1-b, relative to probationers and parolees.

Amendment Adopted. Ordered to Third Reading

SB 239-FN, Relative to electronic privacy. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: This bill has also been recommended by the Department of Justice. SB 239 originally had three parts; part A repealed RSA 570:A and reenacted to bring the New Hampshire law into conformity with US law with regard to wire tapping and eaves dropping. Part B created a new chapter which focused on store communications, computers which we felt that we were not ready to deal with this year so the amendment, you'll find, deletes part B. Part C, again, brought New Hampshire into conformity with federal law with regard to pen registers and trap and loose devices. These are machines that allow investigators to find out what telephone numbers dialed or received a call. The committee felt that the highly technical nature of part B warranted further study so as I said, we deleted that by the amendment and that's what the amendment does. We felt that parts A and C maintained current definitions and brought New Hampshire into the scope of the federal law.

#### AMENDMENT TO SB 239-FN

Amend RSA 570-A:2, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) An officer, employee, or agent of any provider of wire or electronic communication service, landlord, custodian, or other specified person, to provide information, facilities, or technical assistance to an investigative or law enforcement officer who, pursuant to this chapter, is authorized to intercept a wire, oral, or electronic communication if such provider, its officer, employee, or agent, landlord, custodian, or other specified person has been provided with a court order directing such assistance signed by the authorizing judge, setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No provider of wire or electronic communication service, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or the device used to accomplish the interception with respect to which the person has been furnished a court order under this chapter, except as may otherwise be required by legal process and then only after prior notification to the attorney general. Such disclosure shall render such person liable for the civil damages provided for in RSA 570-A:11. No cause of action shall lie in any court against any pro-

vider of wire or electronic communication service, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

Amend the introductory paragraph of RSA 570-A:9, VII as inserted by section 1 of the bill by replacing it with the following:

VII. Notwithstanding any other provision of this chapter, if the attorney general, who reasonably determines that:

Amend RSA 570-A:9, VII(b) as inserted by section 1 of the bill by replacing it with the following:

(b) There are grounds upon which an order could be entered under this chapter to authorize such interception, an investigative or law enforcement officer specially designated by the attorney general may intercept such wire, oral, or electronic communication if an application for an order approving the interception is made in accordance with this section within 48 hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any case where the interception is terminated without an order having been issued, the contents of any wire, oral, or electronic communication intercepted shall be treated as having been obtained in violation of this chapter.

Amend the bill by replacing section 2 with the following:

2 New Chapter; Pen Register, Trap and Trace Devices. Amend RSA by inserting after chapter 570-A the following new chapter:

## CHAPTER 570-B PEN REGISTER, TRAP AND TRACE DEVICES

570-B:1 Definitions. As used in this chapter:

I. The terms "wire communication", "electronic communication", and "electronic communication service" have the meanings set forth in RSA 570-A:1.

II. "Judge of competent jurisdiction" means a judge of the superior court.

III. "Pen register" means a device which records or decodes electronic or other impulses which identify the numbers dialed or other-

wise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

IV. "Trap and trace device" means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.

570-B:2 General Prohibition on Pen Register and Trap and Trace Devices.

I. Except as otherwise provided in this chapter, a person is guilty of an offense if he installs or uses a pen register or a trap and trace device without first obtaining a court order under this chapter.

II. The offense is a misdemeanor if the violation of this chapter is a first offense. If the violation of this chapter is a second or subsequent offense, the person shall be guilty of a class B felony.

570-B:3 Exception. The prohibition of RSA 570-B:1, I does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service:

I. Relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights of or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

II. To record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful, or abusive use of that service; or

III. Where the consent of the user of that service has been obtained.

570-B:4 Application for an Order for a Pen Register or a Trap and Trace Device.

I. The attorney general or the deputy attorney general may make an application to the superior court for an order or an extension of an order under RSA 570-B:4, authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation to a court of competent jurisdiction.

II. An application under this chapter shall include:

(a) The identity of the attorney for the state making the application and the identity of the law enforcement agency conducting the investigation; and

(b) A certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

570-B:5 Issuance of an Order for a Pen Register or a Trap and Trace Device.

I. Upon an application made under RSA 570-B:3, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the state if the court finds that the attorney general or deputy attorney general has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

II. An order issued under this section shall specify:

(a) The identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

(b) The identity, if known, of the person who is the subject of the criminal investigation;

(c) The number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and

(d) A statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device.

III.(a) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed 60 days.

(b) Extensions of such an order may be granted, but only upon an application for an order under RSA 570-B:3 and upon the judicial finding required by RSA 570-B:4. The period of extension shall be for a period not to exceed 60 days.

IV. An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that:

(a) The application and order be sealed until otherwise ordered by the court; and

(b) The person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the ex-



istence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

570-B:6 Assistance in Installation and Use of a Pen Register or a Trap and Trace Device.

I. Upon the request of an attorney for the state or an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in RSA 570-B:5, II (d).

II. Upon the request of an attorney for the state or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such investigative or law enforcement officer all additional information, facilities, and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in RSA 570-B:5, II(d). Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

III. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

IV. No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of the court order under this chapter.

V. A good faith reliance on a court order or a legislative authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

570-B:7 Reports Concerning Pen Registers and Trap and Trace Devices. On or before December 1 of each odd numbered year, the attorney general shall include in the report required of him by RSA 7:31, a report concerning the number of pen register orders and orders for trap and trace devices applied for by the department of justice.

Amendment Adopted. Ordered to Third Reading.

SB 17, Relative to landlords and tenants. Inexpedient to Legislate. Senator Johnson for the Committee.

SENATOR JOHNSON: SB 17 is a bill that the Senators heard several times before and rejected several times before. The bill was opposed by the New Hampshire Bar Association, they have problems with wage attachments. It puts a burden on the court to collect, other forms of attachment are available. It's primarily a nonpayment of rent bill but as the actual bill is written it isn't really going to do that. Right now under New Hampshire law, wages may be attached only for child support. This bill would put landlords in that same category and I think that this bill as characterized by one of the witnesses in opposition said it's really the worst time for any bill like this to come forward. They would be opposed to it anyways but pointed out that with the housing situation in New Hampshire right now, this would be the absolute worst time to consider something like that. The committee voted inexpedient to legislate.

Adopted.

SB 82-FN-A, Relative to funding for the New Hampshire Veterans Resource/Counseling Center, and making an appropriation therefor. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: We had a hearing on this and there was some opposition to the original bill. We cut the appropriation to \$20,000 on a one time basis. That gives the group an opportunity to take the \$20,000 as seed money and to raise money similar to the funds that Senator Podles established. This is a group that serves the area, a great deal of the north country and has done a great deal of good and has a lot of community support and I'd urge you to support the committee report.

## AMENDMENT TO SB 82-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. It is the intent of the general court to assist the New Hampshire Veterans Resource/Counseling Center by providing money to enable the Center to obtain funding for its programs. The legislative fiscal committee shall have the responsibility to oversee the efficient use of the funds appropriated in this act. In the future, the Center should obtain any state funding through the channels provided in RSA 115-A.

2 Appropriation. There is hereby appropriated the sum of \$20,000 for the fiscal year ending June 30, 1988, to the legislative fiscal committee for the purpose of assisting the New Hampshire Veterans Resource/Counseling Center in raising funds to continue its established programs. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Referred to Finance under Rule 24

SB 111, Relative to electing zoning board of adjustment members. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: The amendment allows a town to elect the members of the zoning board. If the town so chooses, it can have an elective rather than appointed members of the zoning board and I'd urge the members of the Senate to go along with the committee amendment.

## AMENDMENT TO SB 111

Amend RSA 673:3, I and II as inserted by section 1 of the bill by replacing them with the following:

I. The zoning board of adjustment shall consist of 5 members, and each member of the board shall be a resident of the municipality. The members of the board shall either be:

(a) Appointed by the individual or board designated pursuant to RSA 672:9 as chief executive officer of the municipality; or

(b) Elected as provided in paragraph II.

II. (a) The local legislative body in a town may decide, by majority vote at the town meeting, that zoning board of adjustment members shall be elected. If this procedure is adopted, the appointed members in office at the time of the next meeting shall continue to serve until the next regular town meeting, at which time the board positions shall be filled pursuant to RSA 669:17 for the term provided under RSA 673:5, II.

(b) The legislative body of a city may vote to place the question of electing zoning board of adjustment members on the official ballot for any regular municipal election. The terms of appointed members of zoning boards of adjustment in cities in office on the effective date of the vote to elect such board members shall continue until the next regular city election, at which time the board positions shall be filled for the term provided under RSA 673:5, II.

Amendment Adopted. Ordered to Third Reading.

SB 147, Relative to surety bonds. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill will change the laws so that a town will not be able to mandate that a person put up cash instead of a bond. It will give them more discretion as to how they will make good on the money. The amendment eliminates section D which the committee felt the discretion was very muddled and unclear and that that portion of the bill was better off deleted. Section E was left intact as is, the feeling that as the home builders themselves had recommended that if they were to get one section where they did not have to put up cash that they would be willing to finish the work before the bond was returned.

#### AMENDMENT TO SB 147

Amend the bill by replacing section 2 with the following:

2 New Subparagraph; Bonds and Securities. Amend RSA 674:36, III by inserting after subparagraph (c) the following new subparagraph:

(d) Shall not require any bond or other security if the subdivider and planning board agree that the subdivider may have conditional approval of the plat, thereby permitting the subdivider to clear the land and proceed to construct and install the improvements and utilities. Any work so performed shall be subject to inspection. Final approval shall be forthcoming when either the construction and installation of the required improvements and utilities is completed or

the remainder is bonded pursuant to this section. In any event all improvements or installations shall be completed prior to any sale, transfer, or rental of a lot. Any violations of this subparagraph shall be subject to the penalties provided in RSA 676:16-17.

Amendment Adopted. Ordered to Third Reading.

SB 165-FN, Relative to the tax on municipal bonds. Inexpedient to legislate. Senator Heath for the Committee

SENATOR HEATH: The Public Affairs committee had two reservations about this. One was how much money would be involved. We weren't able to determine at the time but it subsequently had received a letter from Everett Taylor, the Commissioner of the Department of Revenue Administration, stating that the small sampling that they pulled would indicate that there would be 5.68% of the interest in dividends revenues which would amount to a \$1,418,000 loss. The other concern of the committee was that if this passed and exempted bonds from other states, being cashed under the interest in dividends, that it would drive money that might be invested in bonds in the State of New Hampshire which was the original intent, I think, of the legislation when they exempted domestic bonds, would drive some of that money out-of-state. For those two reasons we found it inexpedient to legislate.

Adopted.

SB 185-FN, Allowing certain cities to set their own tax rates. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: The committee on Public Affairs had a lengthy hearing on this topic and we're well aware that the topic is quite large, quite broad and quite important. There was conflicting testimony and there was a general feeling that everyone who spoke felt that this needed a great deal of work.

In conference with the sponsor and at the suggestion of the sponsor, the committee is recommending inexpedient to legislate with the clear understanding that there will be other opportunities and other mechanisms to address this topic which is critical and the committee recommendation is in concurrence with the sponsor.

Adopted.

SB 186-FN, Relative to current use assessment and the rate of the land use change tax. Ought to Pass with Amendment. Senator Pressly for the Committee.



SENATOR PRESSLY: At the hearing on SB 186 the topic, as you can see, has to do with current use assessment. Again, we had many people there and there was a great deal of interest and as you can appreciate, it is a very, very important and significant topic. The amendment, if you will notice on page 16, is in fact a complete substitute motion and again this is the recommendation of the sponsor. What it is actually doing is establishing a current use assessment study committee recognizing that the topic is that enormous. If you will notice on page 16, that the language is a fairly standard language in creating a committee, we feel that we have balance and we feel it is a topic that deserves this and the committee does recommend ought to pass with this complete substitute amendment.

#### AMENDMENT TO SB 186-FN

Amend the title of the bill by replacing it with the following:

##### An Act

establishing a current use assessment study committee.

Amend the bill by replacing all after the enacting clause with the following:

##### 1 Study Committee Established.

I. There is hereby established a study committee of 9 members who shall study how to more uniformly apply criteria and values for current use assessment among the municipalities in the state, and who shall recommend areas in which the commissioner of revenue administration shall adopt additional rules for the proper administration of RSA 79-A, the current use assessment statute. The committee shall prepare proposed legislation incorporating its recommendations and shall submit the proposed legislation together with a report to the general court on or before October 1, 1987. The committee shall have full power and authority to require from the several departments, agencies, and officials of the state and the political subdivisions of the state, such information and assistance as it may deem necessary.

II. The members of the committee shall be as follows: the member of the senate appointed to the current use advisory board; the member of the house of representatives appointed to the current use advisory board; 2 public members appointed by the governor, one of whom shall represent state conservation groups; the commissioner of revenue administration or his designee; the chairman of the board of tax and land appeals or her designee; the commissioner of the department of resources and economic development, or his designee.

nee; 2 public members appointed by the New Hampshire Municipal Association, one of whom shall represent cities, and one of whom shall represent towns. Members of the committee shall select a chairman and vice-chairman from among their members at their first meeting. Members shall receive no compensation for their services.

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

SB 195-FN, Relative to the nonprofit housing projects and the Senior Citizens Housing Development Corporation of Claremont, Inc. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This legislation was sponsored in response to a Supreme Court ruling requirement from HUD. It applies only to private nonprofit organizations and it is a situation where a private, nonprofit organization is in fact frequently exempt from the local property taxes. But they choose their own accord to enter in to an agreement with the municipality to pay a fee for the services that they feel that they are permitted. HUD has declared that they cannot do this. This bill will now enable this to take place as it has in the past. This bill, as amended, has strong support from the municipal association, there were city managers there from Concord, Berlin, Claremont. We have a list of many cities and towns throughout the state that this will assist. The committee does recommend unanimously ought to pass with the amendment that is in fact recommended by the organizations that supported this.

SENATOR BARTLETT: You were referring to nonprofit corporations? This is a consideration of tax and we're doing this just for the city of Claremont?

SENATOR PRESSLY: No, it will be across the State.

SENATOR BARTLETT: Could you and I form a nonprofit corporation and get this same benefit?

SENATOR PRESSLY: This doesn't really have to do with an establishment of a nonprofit organization. This has to do with nonprofit housing organizations and this is a list of cities and towns and it does not include your public housing projects because that comes under your local municipal. These are private, nonprofit that have already established their nonprofit status through other statutes, I believe.

SENATOR BARTLETT: Could you and I form a nonprofit housing project?

SENATOR PRESSLY: I would imagine that if we were to meet all the requirements for a nonprofit that yes we could.

SENATOR BARTLETT: And if we did so, could we pay each one of us \$100,000 in salary and still be a nonprofit corporation?

SENATOR PRESSLY: I'm afraid I don't know the answer to that. I would imagine that you could.

SENATOR BARTLETT: Would you believe that I have some concern about the misuse of this type of legislation?

SENATOR PRESSLY: I do believe that and I certainly share your concern and I think the committee did, because of the testimony, they did feel that this would benefit the municipality so we didn't feel the danger was there that you speak of.

SENATOR KRASKER: We had some questions about this bill in committee and I wanted to go back to Portsmouth and talk to the city manager. When I showed him this legislation he said he had no problem with it, that probably it would be beneficial at some point. It certainly posed no problems.

#### AMENDMENT TO SB 195-FN

Amend RSA 72:23-j, II as inserted by section 1 of the bill by replacing it with the following:

II. On or before November 1 of each year the owner of the housing project shall enter into an agreement with the municipality in which the property is situated to pay the municipality, on December 1 of each year, a sum in lieu of taxes to defray the costs of municipal, non-utility, services. Failing mutual agreement, the sum paid on December 1 of each year shall be an amount not to exceed the lower of 10 percent of the shelter rent received by the owner from all sources during the preceding calendar year; not including security deposits received from residents of the housing project, for shelter and care of residents within the project, or, a sum equivalent to that derived from the application of the current municipal, non-school, portion of the local tax rate against the net local assessed value of the project. For cause shown and at any time, keeping in mind the nature and purpose of the project, the municipality or the board of tax and land

appeals may refund or abate all or a portion of the payment in lieu of taxes in any year. The owner, on or before June 1 of each year, shall file with the board of tax and land appeals in such form as the board prescribes a statement of financial condition of the facility for the preceding year, and shall file such other information as the board requires. A copy of all statements shall also be forwarded to the municipality.

Amend RSA 72:23-k, II as inserted by section 1 of the bill by replacing it with the following:

II. On or before November 1 of each year the owner of the housing project shall enter into an agreement with the municipality in which the property is situated to pay the municipality, on December 1 of each year, a sum in lieu of taxes to defray the costs of municipal, non-utility, services. Failing mutual agreement, the sum paid on December 1 of each year shall be an amount not to exceed the lower of 10 percent of the shelter rent received by the owner from all sources during the preceding calendar year, not including security deposits received from residents of the housing project, for shelter and care of residents within the project, or, a sum equivalent to that derived from application of the current municipal, non-school, portion of the local tax rate against the net local assessed value of the project. For cause shown and at any time, keeping in mind the nature and purpose of the project, the municipality or the board of tax and land appeals may refund or abate all or a portion of the payment in lieu of taxes in any year. The owner, on or before June 1 of each year, shall file with the board of tax and land appeals in such form as the board prescribes a statement of financial condition of the facility for the preceding year, and shall file such other information as the board requires. A copy of all statements shall also be forwarded to the municipality.

Amendment Adopted. Ordered to Third Reading.

SB 204-FN, Relative to the tax assessment of land subject to growth management ordinances. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: SB 204 is a bill which would penalize municipalities which have attempted to manage growth. If approved, this bill would provide that building lots, which have not yet been built or issued a building permit, would be taxed at the same rate as open space. Many cities and towns have restricted the number of building

permits which it issues in an attempt to slow growth. Those who own building lots and are waiting for building permits clearly intend to use these lots for buildings and not for open space. Thus, it seems curious that they asked to be taxed as if they were intended to leave the lots as open space. In New Hampshire tax assessment is based on market value, the market value of a building lot is much different than that of open space. Thus, it is reasonable to tax these lots as building lots. To sum, this issue may, on the surface seem acceptable, but in practice it would place an extensive financial burden upon the municipalities. By limiting a towns ability to tax building lots for what they are, we would be eroding the local revenue banks. The sense of the committee and the recommendation of the committee, although we certainly recognize the argument requesting it, feel that the pressure and the cost placed on the municipality would not warrant its being passed, are recommending inexpedient to legislate

SENATOR JOHNSON: Senator Pressly, isn't it true that we also received testimony before the committee that indicated that owners of lots under question here really could seek a tax abatement. Was that an appropriate option for them if they felt that they were disadvantaged?

SENATOR PRESSLY: That is correct. The tax abatement is, in fact, one avenue open to them, thank you.

SENATOR BARTLETT: I'm looking at the question of fairness here. It is possible for communities, is it not, to impose growth ordinances at any time that the community so desires?

SENATOR PRESSLY: My understanding is that every municipality does make its own rules in regards to that, yes.

SENATOR BARTLETT: In a community such as mine, it has 49 building permits and there are 300 lots in the town. Is it fair to access all 300 lots as building lots if the community will not give building permits?

SENATOR PRESSLY: That is the main argument and the reason that the bill was brought forth. The other side of the coin in the idea of the committee was a stronger argument in that even though the permit is not able to be granted, there is still a market value on that property that is a buildable market value. Therefore the difference for the municipality is significant, it was impossible to determine what impact it would have on the municipality.



SENATOR BARTLETT: Could you determine the value if there were 15 building lots in Nashua and 50 building permits were out and someone needed to build a house before the end of the year how much would that 51st building lot be worth to a person who wanted to purchase it? If they couldn't get a permit?

SENATOR PRESSLY: I'm in no position to answer that. The explanation that was given was that each municipality then, if this were to pass, would, depending on the year, have no idea what their revenue would be. One example that was given by a person there was that the tax, if the lot were buildable, was \$900. If you declare this actually zoned to be built but without a permit as open space it would be \$8.00.

SENATOR BARTLETT: Obviously, growth control is to save the community money and services, schools, etc. that if you leave them in vacant lots, that lot does not need the services as the houses need and I'm assuming what you're saying if it's true that you're going to let the lots subsidize the houses. Is that not correct?

SENATOR PRESSLY: The committee felt that it was a choice of balance there. We're not saying that it's not totally fair this way. What this bill would do instead seemed to make it even more unfair in a different way and the committee did feel that possibly with some work that a different approach could be brought forth with this. But the testimony from the people who would have to manage this on the local level indicated that it would be most difficult and it would really be the state mandating a revenue wasp to them should this be passed. Also the bookkeeping effort that it would take on their part to manage. That was the testimony given to us.

Senator St. Jean moved to substitute Ought to Pass.

SENATOR ST. JEAN: I rise in favor of this pending legislation. As the Senate President mentioned earlier, this is a question of fairness. A builder goes out and has a number of building lots in which he wants to put houses upon. In various communities he's limited on the building lots that he can build on so all those other building lots that he has and doesn't have permits for are going to be taxed as if they were building lots, which in actuality they're not. They have a much less value without building permits attached to those lots. I think this is a bill and its one of fairness and I think it ought to be passed and given do consideration.

SENATOR HEATH: Senator, would you believe that I had a great deal of sympathy for this piece of legislation and as I was sitting here

listening to you, a thought occurred to me. If I lived in a town that was doing this kind of thing, why wouldn't it benefit me to take my land and subdivide it into lots and apply and get turned down and put it all into open space taxation level just to save myself some money and preserve the land for the future when I might want to sell it, ten or twenty years down the line knowing that they weren't going to grant that many permits?

SENATOR ST. JEAN: It's my understanding Senator Heath, that you now have the option of going current use as the RSA's are presently written.

SENATOR HEATH: But wouldn't this be somewhat current use without the penalties when you come out of current use?

SENATOR ST. JEAN: To a certain degree Senator.

SENATOR JOHNSON: I think it's clear from the discussion so far that there is a problem that owners of building lots face when they cannot get a building permit. I think Senator Bartlett points that out. It was pointed out in the committee but this bill is not necessarily the solution to that kind of a problem. In order to qualify for the current use rate you really need (tape change) important point that knowing that there was a limit on the number of lots, and by the way, in order to have a growth control ordinance, as Senator Bartlett asked the question in the first place, a whole series of requirements have to be met, master plans and the whole works. The testimony was that there's only some 34 towns now that have these ordinances. If this bill were to pass as written there would be the potential of an enormous impact upon the cities and towns concerned and the tax burden would be shifted drastically in favor of the owner of the lot. Now, it's true that there is some disadvantage accruing to the owner of the lot who wishes to build and can't. But I think the testimony was that there's still a market value and we don't, sitting in this body here, we don't know what that's going to be. It could conceivably go up or down or stay the same but this bill is not really the solution to the problem. There may be a solution but I don't believe this is. Senator Heath points out that an owner could put in for building permits for a whole series of lots and then knowing that the chances are that they wouldn't be approved and then benefit from this in a very significant tax way and even if they drew a lucky number there still wouldn't be any absolute obligation to build. So, there is a problem, there is a concern but the testimony did not support that this was the solution to that problem. Therefore I oppose the pending motion.

SENATOR BARTLETT: Senator Johnson, would you believe that I believe that you may be correct about the legislation?

SENATOR JOHNSON: Yes, I would.

SENATOR BARTLETT: Would you further believe that this is really a case of having your cake and eating it too by stopping growth in your community and still maintaining your tax space?

SENATOR JOHNSON: Senator Bartlett, I did point out and I think you would agree that a land owner who feels disadvantaged by this could apply for a tax abatement under the existing RSA's.

SENATOR BARTLETT: I think that's a wonderful option but do you really think that they'd get any rebate?

SENATOR WHITE: Senator Pressly lightly touched on the question to implication and I think if this is passed and we respectfully change the current use law, then we are passing back an added expense to the cities and towns by taking that land out of regular taxation and put it on to a current use taxation. I have concerns that cities and towns will say how can you just change the entire current use?

When I was a selectman we did look at the tracts and we tried to have every thing uniform and be sure that at least they were ten acre lots. I think if you're going to change it this way I think it's a little deceptive to come in the back door more or less via this piece of legislation. I would urge going back to the committee report of inexpedient to legislate.

Motion Failed.

Question: Inexpedient to Legislate.

Adopted.

SB 220-FN, Relative to redemption after a tax sale. Inexpedient to Legislate. Senator Heath for the Committee.

SENATOR HEATH: Under the present law, when your taxes are sold if you're delinquent in your taxes, a charge of 18% goes on and starts running for the entire year and if the taxes are sold in the subsequent year, the charge of 18% goes on. When you redeem it you must pay the cost of the notification to the mortgage holders and

the cost of registering it with the register of deeds and your taxes and 18% on the total. This bill would allow a person to come in and pay a portion of it and the 18% would run on the unpaid amount. Problems with the bill were twofold. If you allowed this, people will come in in drips and drabs and the bookkeeping would be enormous. You'd need a computer in every town and hamlet in the state. One would get \$20 and bring it in and pay and the next day he's got a calf that he can sell and brings that money in and so on and you're constantly readjusting the amount. The other thing is that it removes the punitive payment and almost encourages people not to pay their taxes. It leaves that burden upon the rest of the property owners who have paid their taxes in a timely manner. So, for those reasons the committee felt that it should be inexpedient to legislate.

SENATOR DUPONT: Senator, couldn't it possibly be that I might owe \$3,000 in taxes, pay down \$2,900 of that and go to tax sale and be required to pay interest on the whole \$3,000?

SENATOR HEATH: Yes, the whole ball of wax.

SENATOR DUPONT: So, even though I only owe a hundred, under the existing statutes, I'm going to pay interest on \$3,000.

SENATOR HEATH: If you're that foolish.

SENATOR DUPONT: Could you explain to me at the present time the unfortunate soul who's paying interest on \$3,000, even though he only owes \$100 in the majority of cases, who's he paying that interest to, the municipality or private investors?

SENATOR HEATH: I'd say it's probably 50/50. The municipality seems to want to compete with the private investors to come in to the 18%. Sometimes they get the notion that they are running a business for profit and attempt to slide into an age old tradition. However, if a person who hasn't paid their taxes has any wisdom at all and they want to make installment payments, why wouldn't they do it to a bank where they can get interest rather than to the town where there's no interest accruing and there's a punitive of 18% running.

SENATOR DUPONT: Senator Heath, you keep alluding to the fact that the interest should be punitive or high enough so that it's punitive. I've always assumed that when you lost your property at the end of being unable to pay your taxes and the city finally sold it that that's fairly punitive in itself and the interest really at that point makes no difference what it was.

SENATOR HEATH: Well, Senator, a few years ago we had 6% as a punitive rate and to buy an automobile you were paying 12 to 14%, so everybody said gee this is a way to get a loan without an application and they let their taxes run, just barely kept up with it. So, the legislature in its wisdom made it punitive because there is a common need to have everyone pay their taxes in a timely fashion so that the towns won't have to borrow in advance against it and pay punitive interest to the banks.

SENATOR DUPONT: Is there any regulations on the books that govern what sort of costs can be passed on to the New England taxpayer in terms of cost of notification and other expenses that are related to the collection of those monies?

SENATOR HEATH: No, except that all of those costs can and should, in my estimation, be passed on to the delinquent taxpayer.

SENATOR BARTLETT: I sort of look at this as a fairness issue. There are people who don't pay their taxes on time, either the fact that they don't have the money, sometimes the elderly. My question being that if I had a \$3,000 tax bill and I couldn't afford to pay the whole thing and I paid \$2,500 and I didn't realize that this was in effect, you or I could purchase a \$3,000 note for \$500. Is that not correct?

SENATOR HEATH: I don't believe that is correct. Would you please restate the question?

SENATOR BARTLETT: I'll try to, we have a tax sale and there's \$500 left on the tax bill, \$2,500 had been paid; you go in and buy the \$500 unpaid taxes, what are you going to receive interest on?

SENATOR HEATH: \$500.

SENATOR BARTLETT: Who's going to receive the interest on the \$2,500?

SENATOR HEATH: No one, if it's paid. However, I've never heard of that situation.

SENATOR BARTLETT: I'm sorry but I thought I understood Senator Dupont's question that you replied that the person would pay the tax on the entire tax bill as opposed to the unpaid tax.

SENATOR HEATH: You're talking about the entire amount of taxes that are sold. It's subsequent to the taxes being sold once the lien has been placed on the land, then they owe it on all of it. If they paid



it prior and they only owed \$500, then we can only sell \$500 and the lien on the land is based on the \$500, so the interest on the unpaid taxes would run only on the \$500. It depends on whether the prior subsequent for the tax sale, but it does run on the entire sold taxes.

Senator Torr moved to substitute Ought to Pass.

SENATOR TORR: I think Senator Dupont expressed the situation quite well. If in fact I was a delinquent taxpayer and my taxes had been sold, we'll assume that I owed \$1,000, and at some point in time after those taxes had been sold I paid a portion of them, we'll consider \$500. Even after I had paid that \$500, I would be paying 18% on the total of \$1,000 for the balance of \$500. It's as pure and simple as that. It's a piece of legislation that deals with fairness. Thank you.

SENATOR DUPONT: I obviously am rising in support of Senator Torr's motion but I just want to make the Senate aware that this is a portion of the problem, this is not the whole problem. I asked a question earlier on to Senator Heath about associated costs and what most people don't realize is that there is the ability on the part of the investor to charge the delinquent taxpayer for filing of notices and other things that are related to the collection of the money. The other thing that most people don't realize is that the tax collector acts as the agent for the person that has bought this piece of property at tax sales so, the delinquent taxpayer still will pay the taxpayer and the town who then forwards the money on to the investor. So, basically they're acting as the agent for the investor that's purchased the property. There has been significant abuse in this area, the leveing of unfair charges to delinquent taxpayers and it's really a whole area that needs to be cleaned up. I had a bill in last session that would have basically given the communities the option to purchase the properties at tax sale rather than allowing them to go out to investors and it really has been a very, very visible and vocal issue as far as the tax collectors in my area and the mayors in the cities that I represent. So, this just fixes a portion of the problem but it doesn't solve the whole problem and I would hope that at some time we may have the opportunity to really solve this problem once and for all.

SENATOR CHANDLER: Senator Torr is absolutely right in what he said. However, I think there's another side to the question and that is that it would make a great deal of figuring out what the percentage was and how much the person had paid and how much he hadn't paid, how much was still due. It kind of creates an accounting

nightmare to the tax collector. I think you should take that into consideration. We've talked here today about somebody owing \$3,000 in taxes and they paid and they paid \$1,500 and they were going to be penalized for the whole \$3,000. Well, that's not right, but when it's a small amount of money and they have to figure out everything, they'd have to have a computer there to do it and it's going to make an awful lot of work for anybody to figure out these small amounts.

SENATOR HEATH: Before the Senate leaps into this abyss of rescuing the poor delinquent taxpayer at the cost of the other citizens of the town, even if you believe that this is a good thing to do and I think you're in error and even if you want to ignore the consequences that you're mandating a cost onto a town, the cost of computing and recomputing and continually computing the remainder of the tax liability and the interest instead of running one set of figures for the entire duration of the unpaid taxes. This piece of legislation is written wrong to accomplish Senator Torr's objective. I find it most interesting, it looks like its written by a lay person as a matter of fact. The first line says; any person interested in land sold at a tax sale. That's absurd, land isn't sold at a tax sale, taxes are sold at a tax sale and a lien against the land. This bill is not properly drafted and it would be absolutely uninterruptable and it'd have to be thrown out of use by a court. There's no way to interrupt it, you don't sell land at a tax sale and you don't sell taxes at a land sale. So, all other things, if you can put up with it and over turn the committee report, you ought to at least look at the way the bill itself is constructed because it's unusable in its present time. I would urge you to stick with the committee report. There may be things that need to be done in this area but this sure isn't the way to do it.

SENATOR WHITE: Senator Heath, I've had several letters from my tax collectors in my district. One from my own town and they urge me to support a bill. Is it this bill or is it a bill that's coming in from the House?

SENATOR HEATH: Far be it from me to figure out what tax collectors are to do. I can only give you a general answer, it's been my experience that tax collectors want to do the least amount of work, arrange the whole system for their convenience and let everybody else go to hell. So, that is a generality of tax collectors that I've experienced so you can apply that in any way that you want but I would not pretend to represent what they want.

SENATOR BLAISDELL: By the way Senator White, that is a House bill and I've had the same tax collectors in my office talking to

me. In fact last Saturday morning we had many of them. I agree with Senator Torr and his motion. The tax collectors in my area, and I'm sure yours, Senator White, would love to have this if you gave the town the right to all of these rather than have this list that I read of all the same persons that go in and take all these tax liens. There's a lot of money to be made on this right now and I think we ought to take a hard look at it. I agree with you Senator Torr, we ought to pass the bill and our tax collectors will do the work. Mine are anyways.

Question: Ought to Pass.

Adopted. Referred to Finance under Rule 24.

SB 229-FN, Relative to health clubs. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: The only changes to the current legislation appears on the first page of the bill and they appear in bold print. On line 4 it says letters of credit or escrow accounts. Line 12, it adds a word if it's equivalent, line 15, it's equivalent, lines 17 and 18, the attorney general may reduce the amount of the surety bond or its equivalent if a club's membership refund liability warrants such a reduction.

This legislation was composed by the consumer division of the attorney general's office. It gives them a certain amount of flexibility and in managing the current law as regards to health clubs. Currently health clubs are to post a \$50,000 bond, this new language gives the attorney general's office more flexibility in doing what seems more sensible and logical depending on the size of the health club and the availability of bonding. The committee recommended ought to pass.

Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Blaisdell in the chair.

SB 170-FN, Relative to licensure of mental health professionals. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: SB 170-FN is a product of HB 463, Chapter 96 of the Laws of 1986, which established mental health services task force. The task force is still working on this legislation which would provide licensure for pastoral counselors, mental health workers,

psychologist and social workers. It is a product of all the disciplines and would establish four licensing boards working together in a team effort. It's our hope that you will pass this so that it goes on to the House so that we can complete the work. This bill, as it stands right now, is not the finished product. We had sign-off dates and what not, we put in the material as far as we could go. There's more that we hope will be done and it is our intent to request that the House committee re-refer this so that it can come in in the 1988 session as a completed piece of work.

Adopted. Ordered to Third Reading.

SB 163-FN, Relative to chiropractic. Inexpedient to Legislate. Senator Krasker for the Committee.

SENATOR KRASKER: It is the vote of the committee that 163 be inexpedient to legislate. The bill has come before the Senate on three different occasions and this is the fourth. The purpose is to allow Sherman College graduates, which is the chiropractic college, to take the exams leading to licensing in the state. The committee felt that we were not concerned with the merits of one chiropractic form over the other and that we weren't going to render a medical decision. But I will read RSA 316:9 which is relative to the qualifications for admission to chiropractic colleges in New Hampshire. It provides that graduates from the chiropractic college that has been accredited by an established chiropractic accrediting agency, recognized by the chiropractic board may take the exams in this State. In this State, the established chiropractic accrediting agency approved by the board, is the council on chiropractic education. It's known as CCE. This council is the accrediting body that has been recognized by the United States Department of Education as the only chiropractic accrediting body leading to the doctor of chiropractic degree. Sherman College is not accredited by CCE. (tape change) or its graduates to take the exam which they're not now able to do and it was our unanimous decision that providing an exception for one college not accredited by the body on which the chiropractic board bases its decision on examination would not be a wise decision. Fourteen schools are on the accredited list with three others as candidates for accreditation status, only two schools are not on this list, Sherman is one of them. The committee has sufficient doubts about the curriculum and standards of Sherman College not to allow this exception. No other New England state now allows graduates of Sherman to practice in their state, nationwide only eleven states allow students to be licensed to practice. There are other methods to

address the issue, there will be other bills coming through. A sunset bill is coming through the process and I will state that the committee was sincerely distressed that recent graduates of Sherman knowing that they are not now allowed to take the exam were told that it was alright for them to go to Sherman College because the legislature would take care of things and we found that very distressful. These students certainly have our sympathy but we feel that this special interest legislation should not be used to override the current RSA governing examinations.

SENATOR JOHNSON: Senator Krasker has made an excellent report, I'd just like to add a couple of comments very quickly and very briefly here. As she indicated that the Sherman College administration graduates would be the beneficiaries of this bill, I'd like to let you know the kind of people that we're talking about. I'd like to share a description of the Sherman College people. This is from a certain person, he describes them as true radicals, revolutionaries and outcasts in society who have willingly assume the cloak of a leper. Ideally, their choice that of becoming chiropractic students at the Sherman College of Chiropractic is more than a choice of a profession, it is the adoption of a life philosophy and the acceptance of a pronounced set of truths with a commitment and a responsibility to re-educate a diluted and misinformed world. If we ever pass any legislation like was proposed here, we would become, in effect, a part of the diluted and misinformed world that has now been straightened out by these people here. I might add that Sherman College is probably the most litigious school that we will ever hear of. This school has sued the American Chiropractic Association, the Council on Chiropractic Education, the National Board of Chiropractic Examiners that I know of. In regards to suits, here's a quote from the findings against Sherman College by the U.S. District Court for the District of Columbia: The District Court found that the Council on Chiropractic Education was "broadly representative of the chiropractic profession" and further that the ideology of Sherman College was "the doctrine of a deviant splinter group" and I only comment on recently. I opposed this bill when I first heard of it in 1983. I remember the first debate that we had on this bill, I asked a question of Senator Wiggins, and he's been brought into the discussion a couple of times today, but I particularly remembered this part, I asked him, he was apparently in favor of the bill at the time, I asked him how he would feel about being manipulated by a graduate from a nonaccredited college? And of course in his typical fashion he said, "I don't want to be manipulated by anybody" and so he made his point there. But I think we've made an important point on taking the time now to



really let the Senate know who we're really talking about, the kind of people they represent, the kind of philosophy they represent so I urge the full body to have a resounding vote of confidence in support of the committee recommendations.

SENATOR CHANDLER: I just want to go on record as getting really sick and tired of this dispute going on year after year, session after session, of a chiropractic question of straights and regulars or vice versa. I wish someday, it's been going on for about ten years Acting President, and I wish someday we could get it finally settled and lay it to rest so we wouldn't have to come back here every year to argue over it.

Adopted.

SB 219-FN-A, Relative to treatment programs as an alternative DWI penalty and to a multiple DWI offender residential program and making an appropriation therefor. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: You will find the amendment on pages 18 and 19 of the current calendar and basically what it does is on the second offense, instead of sending the individual to jail we're sending him to a seven day treatment program. They are in the process of rehabilitating the Spaulding Cottage at the Laconia State School and since part of that money was in the capital budget, we have decreased the appropriation from \$600,000 to \$250,000 as there is that \$350,000 in the capital budget to take care of the rest of the renovation there. After the first year of the bill it will be a self supporting bill in that the individuals going will have to pay for their treatment. We feel that this is most advantageous for the state because they will not be allowed to take their seven days at their own discretion on weekends or whatever like they currently do when they go to the state prison. But they will have to take their seven days as a seven, consecutive, twenty-four hour period when they go to the treatment center. We feel that with the treatment this is a much better way of taking care of the alcoholics rather than sending them to prison. As you know in the capital budget they have also put in expanding the prison. Perhaps by putting these habitual offenders of the DWI into a treatment center we will alleviate some of the problems that we have at the prison. It was the unanimous report of ought to pass with amendment by the committee and we hoped that you would support the bill.

SENATOR DISNARD: Senator White, could you explain to me what happens here in this second offense if there was an injury caused to another person by this driver while intoxicated or someone who was killed? Are we letting the person off scot-free?

SENATOR WHITE: No, he's not being let off scot-free but we felt that this would be on a pick-up other than a criminal offense. This would be a civil offense on being picked-up on a DWI.

SENATOR DISNARD: Does it say that here?

SENATOR WHITE: I hope it says that. We worked at lengths with Geraldine Sylvester this week to find out exactly how she felt about it and I would hope that in the amendment, and it will be going to Finance, the amendment is quite extensive and I hope that it does cover that.

SENATOR DISNARD: Would you believe I had a concern that that doesn't happen if someone maims or kills someone, we'd say that all you're going to do is go to school for seven days. I'd have a problem with that.

SENATOR WHITE: I agree.

#### AMENDMENT TO SB 219-FN-A

Amend the title of the bill by replacing it with the following:

An Act  
relative to a state operated multiple DWI offender  
minimum security detention center and making  
an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Multiple DWI Offender Minimum Security Detention Center. RSA 265:82-b, I(b) is repealed and reenacted to read as follows:

(b) Upon conviction based upon a complaint which alleged that the person has had one or more convictions in this state or another state and were within the 7 years preceding the date of the second or subsequent offense, said person shall be guilty of a misdemeanor and shall be sentenced to 7 days confinement in the state operated multiple DWI offender minimum security detention center located at the Laconia state school and fined not less than \$750 and not more

than \$1,000, \$500 of which shall go to the state operated program to pay for the defendant's confinement and treatment costs. The defendant shall arrange for his registration in the program within 2 weeks of sentencing or applicable appeals. The treatment portion of this fine may be reduced or waived by the courts, provided that the defendant has successfully filed an affidavit substantiating indigency. Failure to comply with the above provisions shall be considered contempt of court and a minimum 30 consecutive 24 hour periods of imprisonment shall be imposed. In addition, if the defendant fails to register, leaves the detention center prematurely, or is discharged for non-compliance with detention center rules or regulations, he shall be considered in contempt of court and a minimum of 30 consecutive 24 hour periods of imprisonment shall be immediately imposed. The multiple DWI offender minimum security detention center shall be administered and operated by the office of alcohol and drug abuse prevention pursuant to the provisions of RSA 172-B:2-b. Further, if the defendant is a resident of the state, his driver's license or driving privilege or, if he is a nonresident, his privilege as an out-of-state driver to drive on any ways of this state shall be revoked; and he shall be ineligible to hold a license or to drive upon any way in this state for the next 3 calendar years. The driving privilege or driver's license of a person who has had 2 or more prior convictions within the 7 year period shall be revoked indefinitely, and he shall be ineligible to hold a license or to drive on the ways of this state for at least the next 3 calendar years.

2 New Paragraph; Subsequent Offense Following Completion of Multiple DWI Offender Minimum Security Detention Center Program. Amend RSA 265:82-b by inserting after paragraph II the following new paragraph:

II-a. Any person who has completed the multiple DWI offender minimum security detention center program and is subsequently convicted under the provisions of RSA 265:82 or RSA 265:82-a, or any combination thereof, shall be sentenced to imprisonment for a period of not less than 30 consecutive 24 hour periods and this person shall complete at his own expense a 28 day treatment program within 3 months of sentencing or applicable appeals.

3 New Section; Multiple DWI Minimum Security Detention Center Program. Amend RSA 172-B by inserting after section 2-a the following new section:

172-B:2-b Multiple DWI Offender Minimum Security Detention Center Program.

I. The director shall be responsible for administration and operation of the 7 day multiple DWI offender minimum security detention center program which persons convicted under RSA 265:82 or 82-a may be required to attend under the provisions of RSA 265:82-b.

II. The fees for confinement and treatment costs collected as a portion of the fines assessed pursuant to RSA 265:82-b, I(b) shall be deposited in a special nonlapsing revolving account in the office of the state treasurer under RSA 6:12, I(w) and may be withdrawn by the director only for the purposes of this section.

III. The director shall adopt rules, pursuant to RSA 541-A, relative to the operation of the multiple DWI offender minimum security detention center program with respect to:

(a) Program curriculum and content.

(b) The fee to be paid by each client as provided in paragraph II.

(c) Any other matter related to the proper administration of this section.

4 Special Account Established. Amend RSA 6:12, I by inserting after subparagraph (v) the following new subparagraph:

(w) Fees collected by the office of drug and alcohol abuse prevention pursuant to RSA 172-B:2-b, which shall be credited to the fund established by RSA 172-B:2-b.

5 Appropriation. The sum of \$250,000 is hereby appropriated to the office of alcohol and drug abuse prevention for the fiscal year ending June 30, 1988. This appropriation shall be nonlapsing and shall cover the costs of the first year operation of the multiple DWI offender minimum security detention center program which, after its first year of operation, shall be self-supporting. This appropriation is in addition to any other funds appropriated to the office of alcohol and drug abuse prevention. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Effective Date.

I. Sections 1 and 2 of this act shall take effect upon completion of the renovations of Spaulding Hall at the Laconia state school for an alcohol and drug treatment facility, for which \$350,000 is appropriated to the office of alcohol and drug abuse prevention in HB 200-A.

II. The remainder of this act shall take effect July 1, 1987.

Adopted. Ordered to Finance under Rule 24.

SB 98-FN, Relative to the certificate of need program. Interim Study. Senator Krasker for the Committee.

SENATOR KRASKER: This bill would repeal the certificate of need program established under RSA 151:C. This legislation was revised in 1985 and we felt that we shouldn't repeal it until we gave it a chance to see how it was going to work with revisions. Lee Bossey, who's the chairman of the board and Richard Wagner, representing the Hospital Association, both asked us to wait, to give the law a chance and so we have voted interim study and hope you'll accept the recommendation.

Adopted.

SB 2, Mandating health insurance for alcoholism and drug dependency treatment. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: The amendment to SB 2 is on page 10 of your calendar, it is a bill that calls for mandating alcoholism coverage. My first point that I would like to make is that we never would have this bill on the floor of the Senate if Blue Cross/Blue Shield had done its job. For years, we as a legislature have pointed out to them that the disease of alcoholism is not being faced up to by the State of New Hampshire.

I want to talk first about the role of the State and its obligation that the State has to maximize revenue for liquor sold. New Hampshire is one among the highest in the States in terms of the amount of revenues and the dependence on revenue from the sale of alcohol and yet we are 47th in State aide to drug dependence. We sell booze on the highway, we support our State with that money and we do very, very little; one-fifth of the amount of money that we spend to advertise the liquor, we spend to make up for the havoc it creates. Alcoholism is a disease, one out of ten adults has the disease and I think the most startling figure of this entire bill says that one out of five kids have the disease. With teenagers it is the cause of half of the deaths of children in that age group. It accounts for over 75% of the crime, a great deal of the absenteeism, the accidents on and off the job, particularly car accidents, the drownings, the suicides, the fires and the child abuse. The cost is estimated at \$762 per person for the loss in productivity and the direct loss because of these accidents. One of the worst things about the disease of alcoholism is the effect on families. I think I was most touched in the testimony by the story of the seven year old boy who loves his father, who's an athlete and someone to look up to and they go to the company picnic and the father gets falling down drunk and the little boy is ashamed because



he knows something is dreadfully wrong. The next year when it comes time for the picnic, the little boy although he never says so, is obviously sincerely worried. So, what does he do? He pretends that he has a stomachache and he says to his mother, "I can't go to the picnic this year, I have a stomachache." And in a couple of years he really does have a stomachache because that is the only way that children can cope with the disease. One of the reasons that there are such high savings after a cure is that the whole family becomes cured and the wife doesn't take valium and have headaches and the children don't have stomachaches and the family doesn't lie to each other any more. I want to read at this point a bit from a memo that came interestingly enough from Blue Cross/Blue Shield, in which they are analysing the pilot program and they say, "there does appear to be some downstream savings in the medical surgical area for some of the people who have gone through the program". Now that's about as enthusiastic as they could get about the program that they created. But it does say what so many other studies have said, that after you have alcoholism coverage for a while the costs go down for not only that family but for everyone in the group plan. Thirty-seven States have some sort of a law on drug insurance, twenty-three have a law similar to SB 2, all of New England has mandated alcoholism insurance and none of these twenty-three States have repealed or even lowered the coverage. We have worked hard in our committee and amended the law as it was presented. We've put a cap on it and I think that's an important point, 15,000 in a five year period and this twice over a life time. The detoxics is unlimited because that is the most important part of this medical care. The co-insurance or deductibles are exactly the same as your policy and I wanted to point out Senator Disnard, that of course the cost of this insurance would be born in the same manner as the rest of the insurance. If the employer pays half and the employee pays half it would obviously be the same. The employer would have the option of turning all of the cost over to his employee or as in many plans the employer would pay the employees share and the employee would pay the rest for his family. So, the deductibles and co-insurance are just like they are for any other illness because this is the way alcoholism should be treated; as any other illness.

In the bill we have more for young people because apparently it takes longer to treat a 14 or 15 year old than it does for an adult. In the study that was done for General Motors, and this I think is a very interesting study, 19,000 people who had alcoholism coverage were studied. Fourteen percent of those were children on the policy, less than 1% of the entire 19,000 used the coverage at all. So, we're

not talking about a tremendous number of people. Interestingly, males were 81% of the coverage and females only used 19%, I suppose it is possible that that may have been a reflection of their proportion in the work force. The employees themselves used 72% of the coverages, children 14%, spouses 10% and retirees 4%.

I want to say something here about the level of the coverage that we have provided. 15,000 unlimited detox and unlimited out-patient. I think it is very important to say that we have cut the bill down considerably from the bill that was first before you. Most important to say that if we cut it any further you aren't going to be curing people at the rate that they are in other states. This is a disease that hits people in their most productive years and I think some of the best testimony came from the few business men who could clearly see the benefits of providing alcoholism coverage. I think principally of the man who ran Temple Mountain ski area and one of his statements was, that those employees with alcoholic problems were often times his most valued employees, they were creative, they were intelligent, they worked hard and they had a problem and what he felt, and I feel any good businessman would feel, that it's cheaper to rehabilitate the employee with a problem than it is to hire and train a new one. The industry that takes care of alcoholism boasts a 70% success rate. I would like to end by saying that I think this is an important bill, that the State of New Hampshire has an obligation to put forward as has the rest of New England.

SENATOR HOUNSELL: I would like to begin by saying I don't really in my heart believe that we're going to necessarily solve the problems that are associated with alcohol and drug abuse that Senator McLane has alluded to. I think the emotion of it can cause us not to see the issue before us. I've struggled with this issue, I've looked at it and I don't believe that this is going to solve the problem but I rise in support of the committee's amendment and I do so, after a great deal of soul searching and after considering and indeed promoting many arguments against it. I support this not because it might be a mandate but because it does set a standard. Standards are consistent to what we do in the law making process. We have set standards in the past such as child labor laws, workman's compensation, even the lead content in gasoline that's sold at the pump, the automobile industry, if I may use that sinful word mandated, I hate it, are required to provide safety features as a standard on their automobiles. I disagree with Senator McLane but understanding her want to drive home the thing, the motive argument, that this is good because it is going to help people. I hope it does, I hope we pass

it and I hope it helps but I'm not convinced it will. I do believe that it's an appropriate standard, not mandate but a standard for us to do at this time.

Now I'm going to say one other thing and I hope people are listening to this. I don't believe that it's appropriate for us to continue allowing Blue Cross and Blue Shield to have a non-profit status. I think that if we could address this simply by taking away that and making them have to compete. There are people out there, conscious businessmen, who want to provide this standard but because of Blue Cross/Blue Shield's inability to do something that they could do, they are forced and in some instances to have attained a certain standard that they want to put in because of economics. I think Blue Cross and Blue Shield, for too long, has had an unfair advantage and I hold them responsible for us to have to struggle with whether we're setting a mandate or setting a standard. I'm voting for this because I believe it's an appropriate standard and that's all I have to say.

SENATOR BARTLETT: I rise in support of the amendment. As you all know, I am not a mandate person. I did present before the committee some changes I thought were appropriate to the bill and I stand here tonight and heard you talk about the concerns for those who were caught with DWI and whether you're going to send them to prison. I'm concerned that you didn't send them up to State's prison or over to county homes, county jails, that you want to send them somewhere there's minimum retention and I think that's admirable that you want to do that. But I think there ought to be some attempt here to try to make sure that they don't come back again and I think this will do part of it. I don't guarantee that this is going to cure every alcoholic on the street and if you talk to the people, and I spent quite a bit of time talking to the providers, those people that worked in the homes where the in-patient treatment is, and I'll tell you the success level at the young age is very poor and as you grow older the success level increases. I hear the word mandate and any one of us that has a business and has one employee the State of New Hampshire says we have to buy workman's comp. That's a business cost, it's a mandate, doesn't do the employer any good at all, as a matter of fact it's kind of hard if your a corporate office to collect under workman's comp. That's the mandate that the State says and that's looking out for the individual that works for you if he gets injured. We also pay unemployment, compensation to the State, someone told me it's a tax but really what it is is risk insurance. You might of known that the employment rate in New Hampshire was so

low that the federal government took away some of the money and we increased the amount that we were paying towards that. That is the one where the corporate officers can't collect so we do a lot of things that are mandated that's not fair and yet history and the industry shows that if you can have sufficient alcoholic control in your business that the cost of health insurance goes down. You don't get the usual illnesses that go with alcoholism, your productivity is better, you have a much happier worker there, his family is much safer, we don't have as much child abuse and yet I laugh because someone was very kind, they gave me two packs of cigarettes. I stopped smoking quite a while ago but we are paying today, under insurance not mandated, for everyone that smokes that has cancer and somewhere on here it says that this is dangerous. They also say that alcohol is dangerous, so I'm not saying what you should do but if we pay for the illnesses that exist out there, such as cancer, mental health, it took a long time to get mental health under the coverage, I think it's time that we started looking at an illness that's, not anyone in the medical profession will not tell you that alcoholism is not a disease. What they can't tell you is whether it's genetic or what it is, they really don't know but they do know that it's a disease. I've talked on the two limit in a life time, I think that's sufficient, I've talked to several doctors that treat alcoholics and they think that one shot sometimes doesn't do it but the second one does. They think that two times treatment in-patient is sufficient and I think it's about time that we really started to look forward to trying to address the alcoholism. We had a little seminar, we had a meeting over across the way in August and we were going to seriously try to control the use of alcohol and drugs. Now, you can't do it by law enforcement alone, you need to do it by some treatment. If you don't give treatment to the people, they're going to continue to do the same things they did before. They're going to steal, they're going to rob and this stuff is more available now than ever. If we take care of our social conscience by putting money in the drug forfeiture bill, say we do a good job, we pass the DWI laws and we tell people that they have to go to jail for seven days. It doesn't solve the problem. I'm not saying this will solve the problem but at least it will make the companies that issue insurance face the issue and provide the coverage in a manner that may help us. Thank you.

SENATOR WHITE: I rise in opposition to the committee report of ought to pass as amended. As I look at this bill and all the letters that I have received, I find that this is one more slap against the business community that we are perpetrating at this time. As we look at all the bills that are coming over, spending, spending, spend-



ing money that will increase the business profits tax, we're not looking at being able to reduce the business profit tax 8%. We're going to be very lucky if we can get it down to 8% with all the money bills that are before us. And here once again we're tackling another cost to the business (tape change) and knew him but you're never cured from being an alcoholic and you have to be ever watchful and mindful that you don't take another drink because once you take another drink you start the whole process over again. This bill will not cure an alcoholic. If an alcoholic wants to be cured and he takes treatment, that's one thing. This bill without a co-insurance in it will not cure an alcoholic unless he really wants to be cured and that was something that I tried to tell the committee. I've spoken to AA and I've spoken to several other people, alcoholism is not an illness. They do not define alcoholism as an illness. Alcoholism is a character weakness. If you look at the dictionary, the dictionary defines alcoholism as continued excessive or compulsive use of alcoholic drinks; poisoning by alcohol, a complex chronic psychological and nutritional disorder associated with excessive and unusual compulsive drinking. It isn't an illness and some people said, well it's just like cancer. Cancer is something that comes from within, it doesn't come from without. Measles and all of the rest, you can have vaccines and pills or other things that can cure an illness, you can have an operation that might cure a disease. The only way that you can cure alcoholism is by not drinking. That's the only way that you can cure it. The only way you can cure a drug addiction is to stop taking drugs. You have to have the will power to want to stop that particular process in your life that's leading you to a suicidal process. We have several letters, I don't know why you people think this is necessarily an anti-Blue Cross/Blue Shield bill. We had letters from the Matthew Thorton Health plan; they opposed it because they said that the challenge of any health plan is to provide the greatest level of benefit as cost effectively as possible. The bill before you is not cost effective. St. Joseph's Hospital says that they have been able to treat people in a much shorter time frame. We've had many letters from many, many employers across the State of New Hampshire and they are opposed even with the caps that we have in the bill, that we still have an excessive plan before us. I would hope that at some point we would stop harassing the business community of this State and not coming up with a solution that will really cure the alcoholic. I think that it's regrettable that we can't come up with a cure but until the individual, and Derek Sanderson came before the committee and admitted that he went to detox 13 times. But until he decided that he clearly wanted to be detoxed, nothing was going to help him in curing his drug addiction. Until the individual wants to cure himself there is



nothing that we can do about it and I think if a co-insurance was put into the bill so that the individual had to pay, at least he would be contributing to the cleansing of his body and getting rid of the poison that is within it. For that reason I am opposed to the bill. I am pleased that the committee did take my suggestion that there was a problem with question 2 that is in the amendment but, I am still concerned about the business community.

SENATOR BARTLETT: Senator White, in your description of the cause of alcoholism, are you saying that doctors indicate that it may be hereditary are wrong?

SENATOR WHITE: I don't know if it's hereditary, I think it's a character weakness that's something like cigarettes. It's something that is a very difficult thing to cleanse the body of and until you want to stop, my mother is 74 years old and she still cannot quit smoking that she started when she was 13 years old and she admits that if she had the will power perhaps she could stop. I don't smoke so I don't think it is hereditary.

SENATOR BARTLETT: Would you believe having seen your mother I wished I looked as well as she did at her age. You talk about people stopping, can you have any special way that we can get to someone that's drunk to try to get them to reason when they are intoxicated and under the influence of either a drug or alcohol? Do you have some magic way that we can convince that person that he ought to stop when they're under those affects?

SENATOR WHITE: Regrettably, I don't know how you'd get to that individual. Probably, having been to my house, Senator Bartlett, as it's fairly large, several people tried to get to my husband to get him to quit drinking, as I indicated that was before I knew him, and there were many places where he could store the alcohol so that no one could ever clean my house out of alcohol and if they did then he would hire a cab and go over to the liquor store and get liquor and bring it back to the house. But he finally realized, someone finally did get through to him, that he was ruining his life and he did admit himself to the hospital. Until the individual wants to do that I don't think you can do it. I knew another girl that is younger than myself and she knew that she was basically committing suicide but no one could get through to her. She had three young children and she eventually died about a year and a half ago.

SENATOR BARTLETT: Would you believe Senator White that I agree with you, that until someone feels what they talk about in the

medical profession, the pain, that person is never going to accept treatment. Would you further believe that if someone is taken into detox for approximately 3 to 5 days on alcohol and 7 to 10 on drugs, that at that point a good counselor can tell if that person is going to respond to treatment?

SENATOR WHITE: I suppose there's that chance.

SENATOR BARTLETT: I believe what you're saying and I believe that you believe it fully but, what about the people that now have the feeling that want to get treated that are covered by Blue Cross/Blue Shield. What chance do they have under present Blue Cross/Blue Shield?

SENATOR WHITE: I share your concern and I did bring before the committee two amendments. One of which mandated that coverage be available. Basically, both amendments that I brought to the committee mandated that coverage be made available. I felt that perhaps that was the first step that the Senate should take rather than mandating coverage. Mandate that it is available and that the employer could pick it up.

SENATOR BARTLETT: What you're saying is that the employer could pick it up then those areas which were maybe labor orientated, labor intensified could be made a part of their contracts, but those that weren't would not have the ability to do that?

SENATOR WHITE: It would be up to the individual employer if he wanted to take that as an option on his insurance plan. That's how I felt about it.

SENATOR NELSON: Senator White, would you believe that some of us whom might vote for this bill would not vote for it on the grounds that it is anti-business?

SENATOR WHITE: Yes.

SENATOR NELSON: Senator White, having sat on the committee, I was interested in the makeup of the utilization review board and I wondered if you might comment on the fact that I don't see any representatives from business communities or those people who paid for this, on that board.

SENATOR WHITE: I believe if you look at the amendment we did away of the utilization board with that. We didn't do away with that? Then, Senator Nelson I think you are absolutely right, you should have some oversight from the legislature. Hopefully, Senator Nelson

since I believe that there is an impact in this bill on the State of New Hampshire, because we do carry coverage for our employees, that it would go to Senate Finance and down there they would take care of that concern.

CHAIR: I might inquire that Senator White, that's not the ruling that I've asked the Senate President on and if you would like to ask him you're very welcome to.

SENATOR WHITE: Senator Bartlett, Senator Nelson asked about a committee that is in the bill and I said that I hoped it would be taken care of in Finance because I feel that there is a fiscal impact in the bill wherein state employees have medical coverage and I felt that there will be a cost to the State of New Hampshire because of the added coverage.

SENATOR BARTLETT: Senator White, in answer to your question, it's my understanding that this would not go to Senate Finance. If you look at the last paragraph, not standing any other, and that was one of the paragraphs that I think you asked them to put in, that this chapter shall not apply to any political subdivision in the State, of any sexes chapters construed to necessitate additional local expenditures unless the appropriate body votes to approve such additional funding.

SENATOR WHITE: Oh, they did cover the State. Ok, I was just thinking that we were going to just cover cities and towns.

SENATOR BARTLETT: Well, political subdivision of the State, I'm not sure but I would say that we wouldn't send it down. We can send it down if you want to and bring it back up. It's not going to make any difference.

SENATOR NELSON: Senator McLane, my question again is, on page 6 of the bill, line 18 on the utilization review board, and I was interested in the makeup of that committee and why there is no representation on that board of the people who will be paying some of the cost on that.

SENATOR MCLANE: I don't think you understand the use of the word utilization board. This is a professional board or a board that is going to look at how many people are using it, what facilities they are using, what the average cost is. It's a study of how the bill is used and a study of the disease and the prevalence of the disease. They will make an annual report to the Governor and my assumption is

that what they are going to be looking at is how this health care is being used and it wouldn't necessitate having a businessman.

SENATOR HOUGH: I rise in support of the committee report on this piece of legislation. Senator White, I've listened to your remarks and there are two things that strike me quite clearly with your remarks. Number one; when you indicate that it is a harassment of the business community and you would much prefer the mandating of the availability or the ability to elect coverage, that is no more than a smoke screen, you know it, I know it and the people in this room know it. As to your comments in regards to alcoholism, being a human character weakness all I can tell you is that all of the people that I have talked with, all the highly respected professionals, all of the people that work in this area have lead me to believe that that is contrary to the fact according to the profession and the state that it's in at this time. Senator Bartlett, earlier this afternoon, I indicated that young Senator St. Jean was impressing me because he was beginning to show a degree of wisdom. You my friend are a great man and a great American here today because it was not two years ago that you and colleague with your friend now Commissioner and former Senator Bergeron, you used to battle me on these issues day in and day out. This isn't a question of mandating, you don't mandate anything. Insurance provides a mechanism where risk is spread so that professional services rendered for a health problem can be compensated. That's all we're talking about. I fought Zandy Taft, you've heard me fight Zandy Taft, the Blue Cross, they have their head in the sand, they ought to be out front, they ought to be providing the leadership, and until Blue Cross, whether it's third party payments for mental health, professionals, licensed social workers or any other type of recognized service, until they take the leadership in the total and comprehensive health provided system in this State they are going to be attacked by members of this legislature. Not very happy because I have a sense that this body tonight is going to break away, it's going to be a departure from the past, we're going to recognize that we have an opportunity to address a subject matter that wrecks hardship across society that we're going to be able to come into the twentieth century and do the right thing for the suffering people in our society. We're going to pass this bill, it's high time we did, the time is right. Pass it and get on with the other business at hand in this session. Thank you.

#### AMENDMENT TO SB 2

Amend RSA 417-D:3, V as inserted by section 2 of the bill by replacing it with the following:

V. Each insurer shall provide to each covered person the following minimum benefits in any consecutive 12-month period, with such benefits to be paid beginning the first day of service subject to applicable deductibles or co-insurance provisions; provided, that nothing in this section shall allow the insurer to refuse coverage if the covered person does not receive treatment for the entire time period as established in this paragraph or in an amount which equals or exceeds the dollar requirements established in this paragraph:

(a) Detoxification as an inpatient in a treatment facility for up to 3 days for each such detoxification period for alcoholism, up to 10 days for each detoxification period for other drug dependency, and up to 10 days for each such detoxification period for multiple-drug dependency.

(b) Inpatient rehabilitation benefits in a minimum amount of \$15,000 for each 5-year period for adults but, not to exceed 2 such periods per lifetime; inpatient rehabilitation benefits in a minimum amount of \$20,000 for each 5-year period for persons 17 years of age or younger; provided that the adult inpatient benefits shall apply in full to any person upon reaching the age of 18 years, regardless of the utilization of benefits prior to that time.

(c) Outpatient rehabilitation benefits of up to 30 hours per occurrence for the patient and up to 20 hours for the patient's family; provided that there are only 2 occurrences per consecutive 12-month period and not exceeding 5 occurrences over the lifetime of the policy.

Amend RSA 417-D as inserted by section 2 of the bill by inserting after section 8 the following new section:

417-D:9 Applicability. Notwithstanding any law to the contrary, this chapter shall not apply to any political subdivision of the state if any section of this chapter is construed to necessitate additional local expenditures, unless the appropriate legislative body votes to approve such additional funding.

Senator Heath requested Roll Call .  
Senator Charbonneau seconded.

Those in favor: Senators Bond, Hounsell, Hough, Dupont, Disnard, White, Pressly, Nelson, McLane, Podles, Johnson, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston, Krasker.



Those opposed: Senators Heath, Freese, Chandler, Roberge, Charbonneau.

18 Yeas

5 Nays

Amendment Adopted.

Senator Heath requested Roll Call on Third Reading.  
Senator Charbonneau seconded.

Those in favor: Senators Bond, Hounsell, Hough, Dupont, Disnard, Pressly, Nelson, McLane, Podles, Johnson, Stephen, Bartlett, St. Jean, Torr, Preston, Krasker.

Those opposed: Senators Heath, Freese, Chandler, Roberge, White, Charbonneau, Delahunty.

16 Yeas

7 Nays

Adopted. Ordered to Third Reading.

SB 103, Relative to motor vehicle license examinations. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: The amendment to SB 103 is on page 11 and the bill essentially authorizes the director of the division of motor vehicles to appoint secondary school driver education and commercial motor vehicle drivers instructors to administer drivers license examinations. They will be subject to the rules and regulations of the commissioner. The Department of Safety is in full support of this bill and it will take some pressure off the registers.

#### AMENDMENT TO SB 103

Amend RSA 263:7-a as inserted by section 1 of the bill by replacing it with the following:

263:7-a Agents Appointed. The director may appoint driver education instructors employed by public or private secondary schools or commercial motor vehicle drivers schools in the state as license examination agents of the division to administer motor vehicle license examinations. The appointment of any instructor as an examination agent for purposes of this section shall continue while the instructor is employed by the public or private secondary school or commercial motor vehicle drivers school as a driver education instructor. An instructor shall enter into a written agreement with the division to administer license examinations under this subdivision.

Amend RSA 263:7-d, I as inserted by section 1 of the bill by replacing it with the following:

I. If the secondary school or commercial motor vehicle drivers' school requests that the director revoke the appointment of an instructor as a license examination agent, it shall notify the director, who shall revoke such agent's appointment.

Amend the bill by deleting section 3 and renumbering section 4 to read as section 3.

Amendment Adopted. Ordered to Third Reading.

SB 155-FN, Relative to the collection of tolls on an incomplete turnpike highway system. Interim Study. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The committee heard this bill and had some problems with it but understood the need for an ongoing discussion and urges it interim study. I understand that Senator Pressly may have an amendment and I personally, not speaking for the committee, have no objection at this time defeating interim study so that she might, if she decides on the floor amendment to bring it in. But I do not believe that the bill in its present form should be passed.

SENATOR PRESSLY: I would like to thank Senator Hounsell and the members of the committee for suggesting this and extending this courtesy. I appreciate that and urge you to vote no on interim study and give me the opportunity to present the new amendment and then debate it from there. Thank you very much.

Committee report failed.

SENATOR PRESSLY: I would like to substitute ought to pass as amended and the amendment is before you right now. What you see before you is the total content of the bill. The effort that this is put forth is to clarify the situation as regards to the placement of the tolls and the timing of the collection. It is my understanding that the words that are here are strictly what the Department of Transportation has said that they do intend to do. My effort in doing this is to clarify it so that those municipalities and the communities that are currently anticipating the placement of toll booths in their area, that they have a better and complete understanding of what will happen. All it says is regarding collection of tolls on partially completed high-

way systems. The commissioner of the Department of Transportation shall not operate a new toll station until the portion of the turnpike system directly associated with the new toll station is open to the motoring public. If this procedure is acceptable to applicable bond council; I feel that the language is very clear and precise, it only applies to certain sections. It does not involve the whole system in one but just each portion in and of itself. It clearly says if it's open to the motoring public. In other words, if it's able to be used that's when the collection of the tolls will begin. I think the most important objection that the department had, and I feel is addressed, their concern was this being acceptable to bond council. As you can clearly see, the last sentence specifically addresses their concern and in communication with them they have acknowledged that that is their primary concern and they feel this has answered that. As you all know the turnpike and the toll system is totally funded by the bonding. There's not one State penny that goes into that system so, the security, that whatever takes place is within the purview of their funding system, that assurance is in the bill. I would be very happy to take any questions concerning this and I would appreciate very much your consideration of passing.

SENATOR HOUNSELL: Knowing that this is indeed a rewrite of the bill, my question I think may be new but I think are germane. First of all, what would be the status of ongoing construction of our turnpike system be, as we're doing changes and modifying and improving, hopefully, what does this do to a toll?

SENATOR PRESSLY: I don't believe it changes the plan that the Department of Transportation has in effect right now. Their plan as I understand it is to do portion by portion and once the portion is completed then the new toll collection takes place. This basically reaffirms what they have already said they intend to do.

SENATOR HOUNSELL: If they at the department have agreed that this is what they intend to do I fail to see the reason for this legislation.

SENATOR PRESSLY: From my point of view, this gives a community peace of mind. One of the problems that this is causing in my region and in other regions of the state that are anticipating tolls is the anxiety, the fear as to how this system is going to work. The feeling is if they are going to be treated fairly. This just reiterates what they have said what they intend to do.

SENATOR HOUNSELL: If we have a situation, say on the Everett Turnpike, I don't know how many stations there are currently. What are there four? When you're coming up Route 3, are there four stations that you can choose to stop at? Four booths?

SENATOR PRESSLY: It depends on which stop it is.

SENATOR HOUNSELL: Ok, on the Everett Turnpike north of Nashua.

SENATOR PRESSLY: There are three or four of the coin operated and there are two of the manual.

SENATOR HOUNSELL: Would this prohibit them from putting additional drive-up spots?

SENATOR PRESSLY: That particular toll is in fact being moved to a totally new location so as part of their plan that will in fact be actually moved to another location

SENATOR HOUNSELL: Could you tell me then is there the possibility that there will be a time when there will be no tolls collected?

SENATOR PRESSLY: Oh, don't I wish! I don't think that will ever happen because the toll system will be there forever once you put it on there. Once the tolls are collected and it is a few for service, even after the bonding is initially paid off, you're going to have to maintain those roads. So, my understanding is and I've questioned many people, wouldn't it be nice to take them off but, the way the law stands now a toll (tape change).

I think the key word might address what you're speaking to, where it says the portion of the turnpike system directly associated with the new toll station and so it will be handled on a strictly project by project basis.

SENATOR DUPONT: Senator Pressly, every bill is driven by something that is either wrong or maybe right that somebody wants to change anyways. What has caused the introduction of this bill?

SENATOR PRESSLY: I believe fear has caused the introduction of this bill. I come from a region that is very nervous about the placement of the toll booths. We desperately need highway improvements. We now, I believe, have accepted reality that the only way that our part of the state is going to get an improvement is through

the toll system. One of the problems that we have is that we cannot get our questions answered from the Department of Transportation as to what impact this is going to have locally. This particular bill, we have been assured by the Department of Transportation that a brand new toll station will not be placed until the very last part of the whole project. However, in the language that is presented the dates do not seem to jive with their words and we have been assured that it is a printing error. So, this is to just concur with what they've said. Their one objection was the financial part and I feel with this new amendment, I feel that I have made every effort humanly possible to address their concerns so that the state is protected, the project is protected but that there will be now language in the statutes of what their true intent is, which is what they have said.

SENATOR DUPONT: Does it specifically apply to circumferential highways, is this the one that's described in this?

SENATOR PRESSLY: Not only that one but the placement of the one in south Nashua where we already have a highway and the toll is being placed there in order to expand the whole highway. But I do believe that legislation should be drawn generically and I do feel that this is good, fair, reasonable and logical for the whole system and I've avoided very definitely having specific legislation.

SENATOR BARTLETT: Part of my question has been alleviated by reading the amendment but do you believe that we have a highway department that's suppose to be looking out for the citizens of the State of New Hampshire?

SENATOR PRESSLY: Yes, I believe that just as much as I believe that we have put in studies to ask them to explain some of their positions. I do and I support the department and I've had the impression that they also support this as far as it having addressed their concerns. I would look at this legislation as in fact as working in concert with the Department of Transportation.

SENATOR BARTLETT: I guess my question is are you saying that the Department of Transportation is in support of this and basically this is why you put it in?

SENATOR PRESSLY: This is something that I have chosen to put in for my region of the State. The amendments and the fine tuning of it have been presented to try to address, and I believe successfully so, any of the concerns that the department has. It's basically having in writing what the department has said that they intend to do.



SENATOR BARTLETT: If, by doing this, you would jeopardize the construction of your highway because there wouldn't be sufficient monies to pay for that section done, would you want this passed?

SENATOR PRESSLY: If I thought for one moment that that would be the case, I would not be here before you. The fact that the whole project for the toll is through bonding and this and any other legislation that I have concerning the toll system specifically says that it must and will be acceptable to the bond council which is the sole funding mechanism for the whole toll system.

SENATOR HOUNSELL: I am very happy to stand up and to state that this bill, I think, accomplishes what Senator Pressly hoped it accomplished and I do urge that we do pass it at this time.

#### FLOOR AMENDMENT TO SB 155-FN

Amend RSA 237:9-a as inserted by section 1 of the bill by replacing it with the following:

237:9-a Collection of Tolls on Partially Completed Highway System. The commissioner of the department of transportation shall not operate a new toll station until the portion of the turnpike system directly associated with the new toll station is open to the motoring public, if this procedure is acceptable to applicable bond counsel.

Amendment Adopted. Ordered to Third Reading.

SB 157, Relative to the relocation of toll booths or widening of access traffic arteries that are determined to be a major bottleneck to the motoring public. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: The committee report of transportation is ought to pass with the amendment. The amendment appears on page 15 and the purpose of this legislation is to provide for any municipality a mechanism should a toll booth be placed within the municipality that to everyone's great distress should not turn out to be exactly what they want as far as their being a possible back-up or diversion or should in any way cause major problems for the municipality. This allows that municipality to petition the Department of Transportation who will hold hearings and then if they determine that in fact the placement of that toll booth has caused some problems they then have mechanisms before them to remedy this. This bill did receive the support of the Department of Transportation, I'm

happy to tell you, as it appears in the Calendar. As you can see, section D or any other alternatives determined by the department and also any solutions that are recommended also have the bond council which is the one funding mechanism for the whole toll system. There is no cost factor to it because any remedy again would come out of the same system that is of no cost to the State which is the whole turnpike system. I am pleased to present the committee's report which is ought to pass as amended.

SENATOR PRESTON: Not opposing what you're trying to do here but looking at page 2 of the original bill, could you address that concern of the commissioner? Did you do away with page 2, section C, Senator? I wasn't able to locate it and if you've taken it out I'm satisfied.

SENATOR PRESSLY: The language has been changed completely by that. There are four sections, four possibilities. It says, the relocation of the toll booth that would lessen a major traffic grid-lock, widening of the existing access ramps leading to and from the toll booth, contributions from the turnpike funds or other revenue funds that would be in compliance with the reconstruction of state or municipal roads leading to or from the turnpike which are access roads. To or from the location of the toll booth, I think that's the one that answers your question and the number for any other alternatives. So, it really gives the department the authority and jurisdiction to propose whatever alternatives and of course all of them, anything that they suggest must be compatible with bond council.

SENATOR PRESTON: Just for the record, there was that one section that they thought violated the statutes and you're telling me it has been removed? Page 2 section C, and I'm satisfied with that if that's true.

SENATOR PRESSLY: That is my understanding.

#### AMENDMENT TO SB 157

Amend RSA 237:11-a, II and III as inserted by section 1 of the bill by replacing it with the following:

II. If the commissioner of the department of transportation determines that the preponderance of the evidence presented at the 2 public hearings indicates the existence of a major traffic problem created by the location of a toll booth, the commissioner shall take appropriate action to alleviate the problem by one of the following methods:

(a) The relocation of the toll booth that would lessen a major traffic gridlock;

(b) Widening of the existing access ramps leading to and from the toll booth;

(c) Contributions from the turnpike funds or other revenue funds that would be in compliance with the reconstruction of state or municipal roads leading into or from the turnpike which are access routes to or from the location of the toll booth;

(d) Any other alternatives determined by the department of transportation.

Any solution to this problem recommended under this paragraph shall have the approval of bond counsel.

III. The funding required to accomplish any of the options in RSA 237:11-a, II shall be appropriated from the toll revenue fund established by the New Hampshire turnpike system or other revenue sources. The request for such an appropriation shall be submitted by the commissioner to the general court.

Amendment Adopted. Ordered to Third Reading.

SB 160, Relative to the necessity of obtaining a permit for excavation. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: The committee report on SB 160 is ought to pass. However, I would like to propose an amendment. Although the committee did recommend ought to pass there were some objections brought up and I've really just taken it upon myself to try to address those and bring this in. The only change to the current statute is the last section of the bill, that says for purposes of this paragraph excavation shall include any activity upon any land that is intended to prepare such land for the taking of earth. What happens currently is that when there is going to be a gravel pit created or there's going to be taking of earth for a state highway project. There is language in the statute and appropriately so that that project is exempt from local town ordinances and their planning board and their zoning board and that the State then is responsible. The only thing that this does is that it clarifies that when that is the case, that it is a state project exempt from town control, that the state is responsible from the very beginning. That the owner does not have the ability to clear the land, dig the land, excavate the land without any agreement. Within this process they have what they call a pit agreement. This is something that the Department of Transportation must and does enter into with the excavation. The only thing that this would encourage is that they would have the pit agreement before they dam-

age or disrupt the land. I have checked with the Department of Transportation, it will not cost them any extra money at all. It is just a change in the timing. What this is doing to your local communities is that you will have a residential area that is living peacefully and quietly and suddenly major activity begins within their neighborhood in an area that is zoned for residential zoning. The neighborhood then goes to their local body and says, what is going on here, don't they need an exception or something to do this? The town in turn goes to the owner and says, why are you doing this? The owner says, I can do whatever I want to because I am exempt. This is a state project. But no one from the state is involved. All that this will do is it will lessen enormous trauma to communities when there is going to be an excavation, it will not stop it, it will not prevent it and it will only clarify that there is an agreement up front before the land is devastated and the neighborhoods feel that they have been abused. It only changes the term excavation for this one part of the paragraph.

SENATOR PRESTON: In all due respect to my colleague and fellow member of the Transportation Committee, the vote on this bill was three ought to pass and two in opposition and the Senator has rightly attempted to provide us with an amendment that seemly would satisfy everyone. I am urging you respectfully to vote against the committee report and defeat the motion now before us of ought to pass with amendment.

I understand perfectly why a Senator sponsors a bill because there is a problem in one of the communities in the district but I could envision this being used as a penalty anywhere in the State, another effort to further regulate those not only in the contracting industry but the punitive effect would be on the citizens of our state, diminishing supply of fill to build the highways and we just implemented a ten year highway plan. I am convinced that the message has been given very clearly to the Department of Transportation that if you want to delay the highway plan and future construction of our highways and if you want to impose more regulations then vote for this bill. But if you don't I can tell you you're taking a little bit of a degree of freedom here that I think can be addressed by rules in Transportation and though it may not have been done so in the past, I think it will be and your not taking away another property right.

SENATOR PRESSLY: Are you aware that there is a situation in Hollis right now that has come to a screeching halt, that the whole

project is in litigation because this language is not there. If this language had been there the project would be moving along more smoothly than it is today.

SENATOR PRESTON: And I am satisfied that it will be resolved within the judicial system and I refuse to impose any more regulation on an industry that is now having difficulty in supplying a proper ingredient for highways to this state and I think there is enough regulation and enough environmental protection locked in that they use it.

SENATOR BARTLETT: Senator Preston, if I lived in an area where I wanted highways built, I wanted them to be built in a speedy manner to help reduce the congestion in my area, would I vote for this amendment?

SENATOR PRESTON: Senator, I have discreetly tried to tell my friends from certain parts of the state that this bill could have a punitive impact on an area where most of the highway funding is being.

SENATOR BARTLETT: If I felt that this would harm or slow down construction in certain parts of the State, and that state funds for highways might be diverted to my area, would I vote yes?

SENATOR PRESTON: I would vote in opposition to the pending motion.

SENATOR DUPONT: It's probably not too often that you'll see Senator Preston and myself both standing up on the same side of an issue but I, as everyone knows, come from an area that is undergoing somewhat the same growth as the Nashua area is and while I recognize some of the concerns that Senator Pressly has, these are soon to become really, really critical parts of the road construction projects in the state and anything we do to further hamper the ability to use these products are just going to make our road projects either too expensive to complete or impossible to complete so I urge the defeat of this amendment.

SENATOR PRESSLY: Senator Dupont I would ask of you, what would be your response to residents who call you and tell you that they live in a town and their whole neighborhood is being torn apart and the work that is being done is totally contrary to all the town ordinances and it comes under the state but there is no one in charge. The state says they are not in charge. What sort of an an-



swer that that land owner can do whatever he wants to to the land, against the town ordinance because it's a state project and they call the state and they say it's not our problem. How would you answer the people in your town when they call you?

SENATOR DUPONT: Senator, without knowing the specific details of that problem over there, I probably can't answer that but, I would say I'd probably have to act as Senator Preston's response in that the courts, at least in my experience and I have had some experience, offer a satisfactory remedy even in the case of an injunction to prevent the continual removal of those products from that pit so, obviously if they had a case that was sufficient enough to warrant that then that would happen. But as it's written it doesn't just effect the situation in Hollis but it's going to effect the construction State wide and that's what I have a problem with.

Amendment lost.

Committee Report failed.

Senator Charbonneau wished to be recorded taking Rule 42.

Senator Preston moved to substitute Inexpedient to Legislate.

Motion Adopted.

SB 209-FN, Relative to implementing national standards for specific information signs. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: As far as I can tell unless we deal with the table this is the bill we're looking for. SB 209-FN was recommitteed to address an amendment that I think addresses the concerns of the committee. The amended version that you have in your calendar of this bill requires the commissioner of Transportation to implement a program authorizing and regulating specific information signs in accordance with the federal highway administration provisions relative to size, lighting and spacing. The commissioner must also adopt a fee schedule for users of such signs which will cover the cost to the Department of Transportation of erecting and maintaining the sign. The fees are continually appropriated to the Department of Transportation for erection and maintenance of such signs. The use of these signs is restricted and this is a major change, to Interstate 93 from the Massachusetts border to the Hooksett toll booth. These signs may remain in place for a period of three years

after which time they shall be removed at the expense of the participating businesses unless prior to the expiration of the three year period the use of the sign is to be continued by the legislature. This bill truly attempts to set up a pilot program in a restricted area to see if it has its merits. The majority of the committee felt that it was appropriate for us to do this, it's been discussed before. Last year the Senate passed it and we urge the Senate to pass it again this year.

SENATOR JOHNSON: I rise in opposition to the floor amendment with all due respect to my colleagues, Senator Hounsell and Senator Freese. The amendment is only a shortened version of the original bill. It reduces the length of I-93 to which this would have been applicable from intersection 31, I believe it was, down to the Hooksett toll booth. So, that's all the amendment really does. I'd like to call your attention to the title. Now, if you believe that this is an act relative to implementing national standards for specific signs I want you to know that I have a bridge in New York for sale. As you know I'm only speaking for myself now, that I was influenced by the quality and the source of the testimony in opposition to this bill. Let me say this to my Senate colleagues, if you believe that the legislature should do what it can to preserve the natural beauty of this State you should vote inexpedient to legislate. If you believe the generic signs continue to meet the needs of the motoring public in New Hampshire, then you should vote inexpedient to legislate. If you believe that in permitting as many as eight different signs at most intersections, two for gas with as many as twelve individual panels, two for lodging with as many as eight panels, two for food with as many as eight panels and another one for camping, if you believe that those kinds of signs constitutes visual pollution you should vote inexpedient to legislate. If you believe the testimony of Dick Hamilton, from the White Mountain attractions, that the beneficiaries would be the large chains, the Burger Kings, and not the small independent operators who are the back bone of our industry, you should vote inexpedient to legislate. Scott Brackett, of the New Hampshire Travel Council also opposed this bill. He opposes the amendment also. He pointed out that there are no significant complaints from the motoring public, he pointed out that the very industry, the travel council and that's the very industry that you would expect would be fighting for this bill is in fact fighting against this bill. Do you believe the testimony of Jack Oudens, the Bureau Environment, Department of Transportation who considers the federal stand sign colors to be a visual assault? Who further stated that there's no need for these signs in New Hampshire and further that the motorist are not

clammering, that this would be, this kind of legislation, would be an unnecessary burden on the Department of Transportation at a time when they have more than enough to do to carry out the ten year highway plan then you should vote inexpedient to legislate.

So, in summary, we have the New Hampshire Travel Council opposing, the White Mountains Attractions opposing, two divisions within the New Hampshire Department of Transportation opposing this bill and I think it's incumbent upon this legislature to protect the natural beauty of this State and the beauty that is inherent that's still left in our highways and particularly our interstates then you should vote inexpedient to legislate on this bill which constitutes another form of visual pollution on Interstate 93.

SENATOR HOUNSELL: Senator Johnson, just so that we get a clear picture of the hearing because there was testimony. Wasn't there a fellow from, I think, the Portsmouth area that operated a jitney service where he transported people throughout the state and he spoke to the benefit that that would not only give him but the riders of his vehicles and there was a testimony that this thing would provide indeed a unique service?

SENATOR JOHNSON: Not only was there this person referring to himself as a jitney operator who did in fact testify in favor of this bill and that person puzzled me because he talks about being a person who drives up and down the highways all the time and he would be the last person that would have a need for this bill and so his testimony really puzzled me. In fairness to the thrust of your question however, I want to say that Triple A also testified in favor of it. I want to be completely fair with it and those who appeared in favor of it.

SENATOR FREESE: I think the question was just answered Senator Johnson, in regards to Triple A favoring the bill. Isn't it true that this is a pilot program, a program that's much more extensive than the original bill and as you stated that it does start on the Massachusetts line and it goes as far as the Hooksett toll booth and stops. Isn't it true that it's just a trial period for three years and it's a sunset bill at that time unless the legislature reenacts it.

SENATOR JOHNSON: Senator Freese, it is true that this bill as written would be for a three year period. But I think we all know that if we take a look at the history of the bill itself there have been at least one change and I believe two. The original bill started up at

exit 32 and then in the first bill it dropped to 31 and now, after the opposition to that, it dropped it down to the Hooksett toll booth. So, with all due respect, this is in my judgement, really an opportunity for a foot in the door to get these signs up and I think I'd rather pass a bill that says put them up indefinitely really than pass one, on getting my judgement only. There's really just a pretense there to get these signs up and hopefully have us all become accustom to them and I know that those things can happen after we've been assaulted for a period of time, we'd probably get dulled by the sight of that and then sort of say, what the hell they've been up there, leave them up there. I think now is the time to nip this visual pollution in the bud, Senator Freese, with all due respect.

SENATOR FREESE: Senator Johnson, would you believe that I believe that these signs become an actuality, that you might find them very helpful to people coming into the State?

SENATOR JOHNSON: Senator Freese, I really don't believe that and in all sincerity with absolutely no mental reservation. I believe that by reducing this bill down to the Hooksett toll booth that we'd be putting up signs at the very intersections that have the least need for them. Last Saturday afternoon I happened to go down to Hudson to a reception at Senator Charbonneau's house and I took a particular note of exit 4. As I just glanced at exit 4, virtually all of these things were within my immediate visibility Senator Freese, and that would be absolutely redundant to put these kinds of signs where I could look out and see a half a dozen gas stations, I could see the Burger King there with it's big flag, the whole works was right in front of my eye balls.

SENATOR TORR: Senator Johnson, in the Senate Calendar #20 on page 17, which deals with the amendment on 209, it specifies the Department of Transportation Federal Highway Administration Manual on uniform traffic devices and services. Are you aware of what that manual contains?

SENATOR JOHNSON: I've seen portions of that manual, yes Senator Torr and I think the committee was presented with facsimiles of the sizes described there, so I'm generally familiar with that, yes.

SENATOR TORR: Would agree, having seen that manual and those specific areas that deal with the signage, that it would be the type that would be located between the Mass. line and the Hooksett toll booth, that they standardized them and do them in a class manner?

SENATOR JOHNSON: Senator Torr, there's no question in my mind that the signs would be standardized, whether they are in a class manner is strictly a matter of opinion and there was ample testimony that those signs would constitute visual pollution on Interstate 93.

SENATOR TORR: Don't you believe as a tourist state that we should do the upmost to provide information to our traveling public to locate them to facilities that are available to them?

SENATOR JOHNSON: If this bill would indeed accomplish that objective. I wonder why the New Hampshire Travel Council, the White Mountains Attractions would oppose this bill. That's the very industry that ought to be supporting this and what they've said to us is that these signs would benefit the Burger Kings, the MacDonalds and those kinds of organizations and discriminate against the small private operators who are really the back bone of our New Hampshire tourist industry and our New Hampshire economy.

SENATOR TORR: Would you believe that possibly they are opposed to it because the standards that are proposed give strict specifications to qualify to have your signs out on the turnpikes?

SENATOR JOHNSON: In all sincerity, I do not believe that that is the basis of their objection. I think their objection is how they've stated and how I've tried to report it, namely that they think that they would be disadvantaged when they come up against the big chains.

SENATOR CHARBONNEAU: I know you've talked about specific signs but on your sign is it going to state, for instance, gasoline, the station, the restaurant or just symbols?

SENATOR HOUNSELL: It's going to state the logos. This is often called a logo sign bill. Otherwise, if you go to Mobil, you're familiar with theirs, that would have a place on the sign that's appropriate for it under the standards. One of the things that I want to point out so when we're talking about gasoline stations that before they qualify to be on that, it has to provide vehicle services including fuel, oil, tire repair and water; rest room facilities and drinking water; continuous operations at least 16 hours per day, seven days a week for freeways and expressways and continuous operations at least 12 hours per day, seven days a week for conventional roads and a telephone. So there are qualitative things. Food signs have similar things, quickly, three meals a day, seven days a week, and telephone. There are



standards, they are familiar logos. I think that's a lot of the fear that people say, well you know they're for big business but I would contend this, lots have been said about MacDonalds and Burger King but they provide a service in those facilities and if you think about I think you'll agree that I'm right, when you go into a lot of these facilities they'll have a bulletin board and on that bulletin board they provide a free space services for all kinds of attractions, businesses that are localized in that area and I think they, by themselves to their customers, provide that needed information. I have no problem with enhancing a business just because they're a chain. They're usually operated by local businessmen and have a need just like private business that's not associated with a chain. So, I think it's unfair to say that this favors the big corporation or a big chain when in fact it helps to enhance both the motoring public and the businesses in this state who are trying to do, under our laws of our state, conducting just to make a profit. I really believe it's a good bill and ought to have our support.

#### AMENDMENT TO SB 209-FN

Amend RSA 236:86-a as inserted by section 2 of the bill by replacing it with the following:

236:86-a National Standards for Specific Information Signs; Fees.

I. The commissioner of transportation shall implement a program which provides for the establishment of specific information signs on Interstate 93 from the Massachusetts border north to the Hooksett toll booth. The program shall be implemented in accordance with the provisions of the United States Department of Transportation, Federal Highway Administration, Manual on Uniform Traffic Control Devices for Streets and Highways (Revision Number 4) and in no event shall the standards or requirements of the program be higher or more restrictive than the standards or requirements of said manual. Signs shall be located to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual contact with other signs within the highway right-of-way.

II. The commissioner shall, in consultation with the office of vacation travel, adopt rules under RSA 541-A which shall establish a fee schedule for utilization of such signs by providers of services who qualify under the standards authorized in paragraph I for inclusion on such signs. Such fees shall be in an amount sufficient to cover costs to the department of transportation for erecting and maintaining the signs and shall be continually appropriated to the department of transportation for such purposes.

III. Signs authorized under this section shall be removed at the expense of those providers for whom they have been erected after each of said signs has been erected and in place for 3 full years, unless prior to the expiration of said 3-year period legislation is enacted authorizing the continuation of the program authorized under this section.

Amend section 3 of the bill by replacing it with the following:

3 Effective Date. This act shall take effect upon its passage.

Amendment Adopted.

Question: Ordered to Third Reading.

Senator Johnson requested Roll Call.  
Senator Roberge seconded.

Those in favor: Senators Hounsell, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, McLane, Podles, Bartlett, St. Jean, Torr and Delahunty.

Those opposed: Senators Bond, Heath, White, Pressly, Nelson, Charbonneau, Johnson, Stephen, Preston and Krasker.

14 Yes

10 Nays

Motion Adopted.

Recess.

Out of Recess.

Senator Bartlett in the chair.

SB 154-A, Relative to a second bridge across the Nashua River in the city of Nashua and making an appropriation therefor. Interim Study. Senator Torr for the Committee.

SENATOR TORR: SB 154-A, the committee recommends interim study by a vote of five to two. The bill would have appropriated 4.275 million dollars for the city of Nashua for a design of a right-of-way acquisition and for a second bridge over the Nashua River in the city of Nashua. It would have provided for the city of Nashua to certify to the Governor's Council that they would have funded 1.425 million dollars which is 25% of the share. It was the feeling of the committee that there is not a funding source for this project at this time and it would be inappropriate to take and due design on a project that

would eventually cost between 18 and 30 million dollars as testified by the Department of Transportation. Therefore we recommend interim study.

Adopted.

Senators Roberge, Pressly, Nelson and Charbonneau wished to be recorded as opposed.

SB 211-FN, Relative to a license fee for clean up of gasoline and oil underground storage tank leaks and spills and creating a study committee. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: Just to briefly refresh your memory, SB 211, last time we acted on it, there was some questions relative to products that were flowing through the Portland pipeline and also products that would be trucked through the State but not deposited in tanks within the State. Senate Fiance has amended this bill to take care of those problems and a couple of other small language changes. Basically it provides a tax of .025 cents per barrel which works out to about 6 mills or 6/100ths of a cent and it has, from what I can gather, the support of the industry. They worked on the amendment and everybody seems to be happy with it.

#### AMENDMENT TO SB 211-FN

Amend the title of the bill by replacing it with the following:

An Act

relative to a license fee for clean-up of gasoline and oil  
underground storage tank leaks and spills and  
creating a study committee.

Amend RSA 146-A:11-a, II, III, and IV as inserted by section 1 of the bill by replacing them with the following:

II. Moneys in the fund not currently needed to meet the obligations of the division of water supply and pollution control under this chapter shall be deposited with the state treasurer to the credit of said fund and may be invested as provided by law. Interest received on such investment shall also be credited to the fund. If the fund's balance becomes greater than [\$1,500,000] \$2,750,000, the license fees established in RSA 146-A:11-b, II, shall be discontinued and only re-established when the fund's balance is 20 percent below the [\$1,500,000] \$2,750,000 balance.

III. Revenue from the fund shall be disbursed as grants or loans or both to wholesale, retail, and consumer account owners of gasoline and oil underground storage tanks for the following purposes:

(a) Clean-up of pollution caused by leaking gasoline and oil underground storage tanks; or

(b) Removal of leaking or potentially leaking gasoline or oil underground storage tanks and the installation of new gasoline or oil underground storage tanks, excluding the cost of the tanks and any part of such tanks.

The division of water supply and pollution control shall make grants or loans or both for the purposes stated in this paragraph, taking into account the net worth of the owner, the unavailability, inadequacy, or prohibitive price of liability insurance, and the hardship that would occur if the owner replaced the leaking or potentially leaking gasoline or oil underground storage tanks. All decisions made by the director shall be in writing, including the reasons for such decision. The division of water supply and pollution control shall produce an application form for grants and loans under this section.

IV. Appeal from the division of water supply and pollution control's determination and any decision made pursuant to this section shall be made through the water supply and pollution control council pursuant to RSA 21-O:7, IV.

Amend section 2 of the bill by replacing it with the following:

2 License Fee; Importation of Oil into the State. Amend RSA 146-A:11-b, II to read as follows:

II. Any operator, distributor, dealer, [or] broker, or wholesale terminal facility [who has a storage facility capable of storing 1,000 or more barrels of oil and] who transfers or transports or causes to be transferred or transported oil into the state, except those using oil pipelines, railroads, and highways to transport oil products between states other than New Hampshire or for international transport of oil products, shall be licensed under this chapter. The annual fee for the license shall be determined on the basis of \$.025 per barrel of oil transferred into this state during the license period. The license fee shall be computed at the point of entry of the oil into this state. The fee shall be paid monthly by the licensee to the division of water supply and pollution control and then deposited by the division of water supply and pollution control into the oil pollution control fund. Imposition of the fee shall be based on records of the licensee and certified as accurate to the division of water supply and pollution control.

Amend the bill by replacing all after section 2 with the following:

3 New Paragraph; New Definition; Wholesale Terminal Facility. Amend RSA 146-A:2 by inserting after paragraph X the following new paragraph:

XI. "Wholesale terminal facility" means any facility of any kind and its related appurtenances that is primarily a wholesale distributor of oil products and that is used or capable of being used for pumping, handling, transferring, processing, refining, or storing oil.

4 New Paragraphs; Rulemaking; Oil Pollution Control Fund Grants. Amend RSA 146-A:11-c by inserting after paragraph XI the following new paragraphs:

XII. Procedures for application for grants and loans under RSA 146-A:11-a, III.

XIII. Eligibility criteria for grants and loans under RSA 146-A:11-a, III.

XIV. Purposes for which grants and loans may be made under RSA 146-A:11-a, III.

5 Study Committee Established. An interim study committee is established to examine financing mechanisms for an underground storage tank replacement revolving loan fund, and to investigate the equitability of the current license fee under RSA 146-A. The committee shall consist of 8 members, as follows:

I. Two members of the house of representatives appointed by the speaker of the house; of these 2 members, one shall be a member of the committee on resources, recreation and development, and the other shall be a member of the environment and agriculture committee.

II. Two members of the senate, appointed by the senate president, both of whom shall be members of the development, recreation and environment committee.

III. The state treasurer or his designee.

IV. The executive director of the division of water supply and pollution control or his designee.

V. Two members representing the petroleum industry in the state to be appointed by the governor.

6 Purpose. The creation of this committee created under section 5 of this act represents the legislature's recognition of the need to minimize the economic burden placed on small businesses by new rules and the need to protect groundwater quality without causing undue financial hardship to small businesses.



7 Duties of Committee. The study committee shall investigate means of financing and administering an underground storage tank revolving loan fund for the purpose of tank replacement and compliance with rules, and the equitability of the current license fee under RSA 146-A. The committee shall report its recommendations to the governor, the president of the senate, and the speaker of the house no later than December 1, 1987.

8 Compensation. Members of the study committee shall serve without compensation, except that members of the legislature shall receive mileage at the legislative rate.

9 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

SB 217-FN, Relative to school administrative units. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: This came to Senate Finance as is, we passed it out as is. What it does is changes the ceiling on ASU's from 60 to 75. The bill I have in front of me isn't correct but it is open ended, it changes it from 60 to open ended and it was a recommendation of the Department of Education to travel this route. The bill that we have right on our desk isn't the appropriate bill. That was amended in Education to take out 75 and now it's open ended to as many ASU's that can be requested.

SENATOR DISNARD: Senator Bond I don't recall the amendment in Education, I guess it is late in the evening and it was open ended. I thought it was not more that 75 or up to 75.

SENATOR BOND: If I may Senator Disnard I'll read from the amendment as we passed it in here; "school administrative use combined the several school districts in the state into school administrative units consisting of one or more school districts". That was our final action after it came out of Education. It went into Education 60 to 75 and we eliminated the 75 in here.

Adopted. Ordered to Third Reading.

SB 231-FN, Relative to manufactured housing zoning. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: This bill basically reinforces the policy that towns should allow manufactured housing in certain zoning districts. It basically addresses a policy issue, it doesn't mandate that they do but it basically expresses an opinion of the legislature.

Adopted. Ordered to Third Reading.

SB 237-FN, Relative to the controlled drug act. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 237 is a request of the attorney general's office. It deals with specific regulations that they feel should be incorporated into the present statute. It toughens up the regulation and fines dealing with distributing drugs within school areas, possession and sale of drugs and a number of other issues that the attorney general's office felt they needed to address.

Adopted. Ordered to Third Reading.

SB 94, Providing the legislative budget assistant with access to certain records. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: SB 94 deals with confidentiality issue of records requested by the legislative budget assistant as he performs his duties for the legislature. It was a bill that we had recommitted to Internal Affairs and I'm happy to report to you today that there has been an agreement worked out so that all parties involved are happy with the product you see in front of you today so I would urge you to pass the amendment.

SENATOR WHITE: I regret that I didn't have a chance to look at this amendment until now and did not really expect that this was going to be on the floor today so I'm really not prepared to discuss it. But I think that the amendment possibly is flawed until we get to the point where the Senate does have equal representation on the fiscal committee. We've passed that in the Senate but as yet it has not passed the House and I hate to keep putting more and more duties under the LBA when we virtually have no control over that particular group so that I would hope that there is something in here that they would be going back to the committee on their performance audit other than the fiscal committee. I hope that there are two reporting groups that it is returned to.

SENATOR DUPONT: The only thing that I can tell you Senator, is that at the time when this was being dealt with there was such an

intensity in the level of negotiations that that was not really brought up as an important item. Since I've been here I think I've been trying to work on trying to come up with a resolve between the Department of Revenue Administration and the LBA office. We've never been able to do that and I think this bill has died three other times as a result of that. I was just happy to get it to us and that's something that I apologize for not addressing but I consider this the major accomplishment of the session that I can come before you and say that they finally agree.

#### Amendment to SB 94

Amend RSA 14:31, IV, as inserted by section 1 of the bill, to read as follows:

IV. Furnishing Information. All state departments, boards, institutions, commissions and agencies shall be required to furnish to the legislative budget assistant any information, including confidential information, he may request in the course of carrying out his duties as prescribed by paragraphs I, II and III, except that access to confidential information maintained by the department of revenue administration shall be controlled solely by the provisions of RSA 21-J:14. If the legislative budget assistant requires access to confidential information, the state entity shall furnish the information, except for work papers as described in RSA 91-A:4, V. In such situations, the legislative budget assistant shall be subject to the same restrictions and penalties regarding disclosure of the information as the original custodian of the information. The work product of the legislative budget assistant shall also be confidential to the extent required to preserve confidentiality required by law. Disclosure of confidential information to the legislative budget assistant shall be only for the purpose of, and to the extent necessary for, conducting audits as are required by law. The legislative budget assistant shall notify the head of any state department, board, institution, commission, or agency before requiring the state entity to furnish any confidential information which was obtained by the entity through an exchange of information agreement with another state or the federal government. This paragraph shall not be construed to authorize disclosure to any member of the legislature or to any expert consultants, including certified public accountants and data processing experts, hired by the legislative budget assistant to assist him in the carrying out of his duties, except such summaries and results which do not disclose any identity required by law to be confidential. If any state entity objects to providing confidential information under the provi-

sions of this paragraph, the state entity may apply to the attorney general for disapproval of the request. The attorney general may examine any confidential information to which the legislative budget assistant has requested access to determine whether or not it is necessary for the legislative budget assistant to examine the information to carry out his duties as required by law. If the attorney general finds that such examination is not necessary, he shall disapprove the request, and the agency shall not be required to provide such information. If the state entity agrees to provide the requested information, or if the attorney general determines that it is necessary for the legislative budget assistant to examine the requested information, such information shall be provided to the legislative budget assistant in a mutually agreeable and compatible format.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect 90 days after its passage.

Amendment Adopted. Ordered to Third Reading.

#### TAKEN FROM THE TABLE

Senator Preston moved to take SB 213 from the table.

SB 213, Relative to utility relocation assistance.

Adopted.

Senator Dupont moved to substitute Interim Study for Inexpedient to Legislate.

SENATOR DUPONT: SB 213 was a bill that caused a considerable amount of controversy. There appears that there is some merit in the bill and we've had a tough time coming to any agreement. It's extremely controversial and it may be after study that nothing will be done with it but because the information came in late and the committee felt that the information flow needed to continue. They ran out of time so we'd like to get it into interim study and perhaps deal with it two years from now.

SENATOR HOUNSELL: I'd like to state that this bill in interim study should be looked at on this single issue; should you have rate payers or taxpayers pay for the cost of the utility's relocation? In my mind, they often wear different hats and they're the same people so I think it deserves interim study and I support that motion.

Adopted.

Senator St. Jean moved to take SB 84 from the table.

SB 84, Restricting the use of double trailers in cities and towns of the state.

Senator Dupont requested Roll Call.

Senator McLane seconded.

Those in favor: Senators Bond, Hough, Disnard, Roberge, Blaisdell, Pressly, Nelson, Stephen, St. Jean, Preston and Krasker.

Those opposed: Senators Hounsell, Heath, Freese, Dupont, Chandler, White, Charbonneau, McLane, Podles, Johnson, Torr and Delahunty.

11 Yeas

12 Nays

Motion lost.

#### ENROLLED BILLS REPORT

HB 89, Relative to library areas.

HB 148, Relative to sunset review of Glenclyff home for the elderly.

HB 149, Relative to sunset review of Laconia State School and Training Center.

Adopted

#### ENROLLED BILL AMENDMENTS

HB 162-FN, Relative to sunset review of the board of tax and land appeals.

SENATOR CHANDLER: This amendment corrects a typographical error in the bill.

#### Enrolled Bill Amendment to HB 162-FN

Amend the bill by replacing line 3 on page 1 with the following:

program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

#### RESOLUTION

Senator Dupont moved that the rules of the Senate be so far sus-



pending as to allow all bills to be placed on third reading and final passage and all titles be the same as adopted and that they be passed at the present time.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

SB 153-FN, Relative to planning for the long-range energy requirements of the state.

SB 143-FN, Re-establishing an advisory committee on state economic development and local population growth.

SB 144-FN, Establishing a joint promotional program for economic development, and making an appropriation therefor.

SB 132, Relative to the appointment of the executive director of the department of fish and game.

SB 83, Relative to distributing political campaign literature at polling places on election day.

SB 137, Relative to voting in state and presidential primary elections.

SB 138, Relative to sessions for correcting the checklist.

SB 139, Relative to election law dates.

SB 208, Adopting the uniform commercial code article 2 A leases.

SB 224-FN, Relative to licensing estheticians.

SB 67, An act increasing the local share of hazardous material transportation fund fees allocated to local emergency response programs.

SB 223, An act authorizing a New Hampshire technical institute security force.

SB 91, An act establishing a committee to evaluate the foundation aid formula.

SB 99-FN, An act establishing a study committee to determine whether the department of transportation has fully implemented the legislative directives of the general court.

SB 107-FN-A, An act relative to the New Hampshire state airport system plan and making an appropriation therefor.

SB 183-FN, Relative to coverage for mental or nervous conditions.

CACR 21, Relative to rulemaking authority. Providing that the general court may delegate regulatory authority to executive branch officials, but such rules may be disapproved by the general court.

Division vote:                      24 Yeas                      40 Nays

Adopted.

SB 190-FN, Relative to financial disclosure by appointed officials.

SB 101, Relative to political campaign contributions by state employees.

SB 222-FN, Relative to increased independence of the public utilities commission consumer advocate.

SB 238, Relative to bail reform.

SB 239, Relative to electronic Privacy.

SB 111, An act relative to electing zoning board of adjustment members.

SB 147, An act relative to surety bonds.

SB 186-FN, Establishing a current use assessment study committee.

SB 195-FN, An act relative to the nonprofit housing projects and the Senior Citizens Housing Development Corporation of Claremont, Inc.

SB 229-FN, An act relative to health clubs.

SB 170-FN, Relative to licensure of mental health professionals.

SB 2, Mandating health insurance for alcoholism and drug dependency treatment.

SB 103, An act relative to motor vehicle license examinations.

SB 155-FN, Relative to the collection of tolls on an incomplete turn-pike highway system.

SB 157, An act relative to the relocation of toll booths or widening of access traffic arteries that are determined to be a major bottleneck to the motoring public.

SB 209-FN, An act relative to implementing national standards for specific information signs.

SB 211-FN, Relative to a license fee for clean-up of gasoline and oil underground storage tank leaks and spills and creating a study committee.

SB 217-FN, An act relative to school administrative units.

SB 231-FN, An act relative to manufactured housing zoning.

SB 237-FN, An act relative to the controlled drug act.

SB 94, Providing the legislative budget assistant with access to certain records.

Adopted.

## RECONSIDERATION

Senator Hough moved reconsideration on SB 2, Mandating health insurance for alcoholism and drug dependency treatment, wherein I voted with the prevailing side and ask the members to vote no.

Motion lost

Senator Dupont moved that the Senate be in recess until Thursday, March 26 at 1:00 p.m. for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings.

Adopted.

Recess

*Tuesday, March 24, 1987*

Out of Recess

Senator Bartlett in the chair.

## HOUSE MESSAGE

### INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 312 through HB 670-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

### First and Second Reading and Referrals

HB 312, To legalize a town meeting held in Canaan. (Public Affairs)

HB 228, Legalizing certain town and district meetings. (Public Affairs)

HB 517, Relative to assessments for sewer rental charges. (Executive Departments)

HB 556-FN, Relative to recording fees. (Public Affairs)

HB 632-FN, Relative to the adoption of capital improvement facility fees. (Internal Affairs)

HB 379-FN, Relative to public land preservation (Development, Recreation and Environment)

HB 437, Relative to motorboat and jet ski operation. (Development, Recreation and Environment)

HB 402, Relative to habitual offenders. (Judiciary)

HB 439, Relative to child passenger restraints. (Transportation)

HB 492, Relative to motor vehicle certificates of origin, joint ownership and fraud. (Transportation)

HB 509, Relative to boat maintenance or repair plates. (Transportation)

HB 582-FN, Providing for regional conferences on highway related problems. (Transportation)

HB 640-FN, Relative to motor vehicle license and registration fees, license plates and boat registrations. (Transportation)

HB 641, Relative to various motor vehicle laws. (Transportation)

HB 686-FN, Relative to farm plates. (Transportation)

HB 329-A, Relative to estimated tax payments for railroads and public utilities. (Ways and Means)

HB 361-FN-A, Redefining references to the United States Internal Revenue Code for purposes of the business profits tax. (Ways and Means)

HB 532, Allowing real estate firms or brokers to establish interest-bearing trust accounts. (Banks)

HB 723-FN, Relative to licensing nondepository first mortgage bankers and brokers and relative to second mortgage home loans. (Banks)

HB 112-FN, Relative to sunset review of the board of chiropractic examiners. (Executive Departments)

HB 156-FN, Relative to sunset review of the nurses registration board. (Executive Departments)

HB 526-FN, Establishing a department of safety. (Executive Departments)

HB 570-FN, Establishing a department of natural resources. (Development, Recreation and Environment)

HB 573-FN, Establishing a fire standards and training council within the department of postsecondary vocational-technical education. (Executive Departments)

HB 590-FN, Relative to fees charged by licensing boards and creating a bureau of professional regulation in the division of public health services. (Internal Affairs)



HB 465, Relative to the protection of employees who report violations of law or refuse to execute illegal directives. (Internal Affairs)

HB 50, Relative to utilization of the Hampton parking meter revenues. (Ways and Means)

HB 393, Establishing the availability of the remedy of declaratory judgment to determine the coverage of a liability insurance policy in the federal district court. (Interstate Cooperation)

HB 436, Relative to insurance coverage for home health care. (Insurance)

HB 608-FN, Relative to pooled risk management programs. (Insurance)

HB 613-FN, Relating to security deposits of insurance companies. (Insurance)

HB 124-FN, Relative to sunset review of the real estate commission. (Executive Departments)

HB 677-FN, Relative to a staffing plan for the new central psychiatric facility and a staffing plan for the Glenclyff home for the elderly and programs in New Hampshire hospital. (Public Institutions, Health and Human Services)

HB 578-FN, Relative to unemployment compensation. (Insurance)

HB 671-FN, Relative to disability benefits for firefighters. (Insurance)

HB 675-FN, Relative to workers' compensation liens against uninsured motorists recoveries. (Insurance)

HB 687-FN, Relative to eligibility for disability payments to injured workers. (Insurance)

HB 697-FN, Relative to the definition of "wages" for workers' compensation purposes. (Insurance)

HB 702-FN, Relative to workers' compensation medical and vocational rehabilitation benefits. (Insurance)

HB 682-FN, Establishing a procedure for enforcing the payment of parking fines. (Public Affairs)

HB 440, Relative to intrastate motor carriers. (Transportation)

HB 462-FN, To provide New Hampshire Purple Heart recipients with special commemorative license plates. (Transportation)

HB 107-FN, Relative to sunset review of the department of revenue administration-community services. (Ways and Means)

HB 304-FN-A, Relative to simulcast racing. (Ways and Means)

HB 708, Relative to excess electric generating capacity. (Development, Recreation and Environment)

HB 612, Relating to insurance holding companies. (Insurance)

HB 666-FN, Relative to medical insurance payments for incarcerated persons. (Insurance)

HB 722, Relative to small loans. (Banks)

HB 159-FN, Relative to sunset review of the board of education-driver education. (Education)

HB 160-FN, Relative to sunset review of postsecondary education commission-veterans education service and repealing the advisory committee. (Education)

HB 167-FN, Relative to sunset review of the department of postsecondary vocational-technical education. (Education)

HB 281-FN, Establishing a study committee on teacher shortages and salaries. (Education)

HB 654-FN, Relative to dogs and cats. (Development, Recreation and Environment)

HB 655-FN, Relative to the testing of livestock in pulling contests. (Development, Recreation and Environment)

HB 656-FN, Relative to cruelty to animals. (Development, Recreation and Environment)

HB 143-FN, Relative to sunset review of the department of fish and game law enforcement. (Development, Recreation and Environment)

HB 692-FN, Establishing an involuntary treatment task force. (Public Institutions, Health and Human Services)

HB 547, Relative to medicaid fraud and patient abuse. (Public Institutions, Health and Human Services)

HB 403-FN, Clarifying penalty provisions for violations of local codes and regulations, relative to district court jurisdiction over such penalties, and enabling district court judges to issue temporary orders enjoining violations of local land use regulations. (Judiciary)

HB 455, Relative to criminal mischief. (Judiciary)

HB 456-FN, Relative to interference with burial grounds and unlawful possession or sale of gravestones. (Interstate Cooperation)

HB 562-FN, Relative to fireworks. (Development, Recreation and Environment)

HB 131-FN, Relative to sunset review of the state liquor commission-office of the commissioner/administration. (Internal Affairs)

HB 132-FN, Relative to sunset review of state liquor commission-office of the commissioner/regulation. (Internal Affairs)

HB 134-FN, Relative to sunset review of state liquor commission-warehouse. (Internal Affairs)

HB 555-FN, Relative to lucky 7 tickets sold by dispenser devices. (Ways and Means)

HB 542, Relative to preferred provider agreements. (Public Institutions, Health and Human Services)

HB 550-FN, Regulating investment promoters. (Insurance)

HB 177-FN, Relative to sunset review of veterinary/medical/optometric education program and amending such program. (Education)

HB 661-FN, Changing the name of the department of postsecondary vocational-technical education. (Education)

HB 714-FN, Relative to assessment of open space land. (Interstate Cooperation)

HB 470, Establishing a department of commerce and establishing an international trade study commission. (Internal Affairs)

HB 600-FN, Relative to OHRV fees. (Transportation)

HB 724, Relative to the transfer of 57 acres of Rye Harbor state park to the department of fish and game for wildlife management. (Development, Recreation and Environment)

HB 449 Relative to disciplinary actions for sexual misconduct of psychotherapists and a duty to report sexual misconduct of psychotherapists. (Public Institutions, Health and Human Services)

HB 530-FN, Relative to assisted persons. (Interstate Cooperation)

HB 398, Relative to custody and support orders. (Judiciary)

HB 727, Relative to the right-to-know law. (Judiciary)

HB 405, Establishing a presumption of negligence for liability resulting from a nuclear incident. (Insurance)

HB 248, Allowing the expulsion of unruly persons from horse and dog racetrack grounds. (Ways and Means)

HB 670-FN, Relative to review of wood-fired electrical generating plants. (Interstate Cooperation)

Recess

Out of Recess

Senator Dupont moved that we go into the late session

Adopted

#### LATE SESSION

Senator Podles moved that we adjourn.

Adopted

*Thursday, March 26, 1987*

Senate met at 1:00 p.m.

Senator White in the chair.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, teach us to pray - for we have left undone those things we ought to have done and have done those things we ought

not to have done! Help us Lord, as we sit and stew - not what is best for just a few, but for something which shall be a new - something good and something true!

Amen

Senator Bond led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

## RESOLUTIONS

## HOUSE MESSAGE

## HOUSE REQUEST SENATE CONCURRENCE

HCR 9, Inviting Chief Justice Brock to address a Joint Convention on the state of the Judiciary.

Adopted. Ordered to Third Reading.

## COMMITTEE REPORTS

HB 176-FN, Relative to sunset review of state board of auctioneers. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: I would like to report on HB 176. This bill renews the State Board of Auctioneers for six years. The recommendation of the Sunset Review was a renewal and the Executive Committee recommends your support with an ought to pass vote.

Adopted. Ordered to Third Reading.

HB 172-FN, Relative to sunset review of New Hampshire housing finance authority. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: HB 172-FN renews the New Hampshire Housing Authority for six years. We spent quite a lot of time listening to testimony. Director McQuade gave us quite an insight into this activity. We learned the traditional methods of funding low income multi-family housing, which is federal funding, has come to an end. The Housing Authority is working with the office of State Planning. They are currently preparing a State Development Plan which is scheduled to be transmitted to the general court by July 1, 1988. We feel that there is no need to put this relationship in law because they are getting along so well working together; so we are just continuing the agency for another six years at this time.

Adopted. Ordered to Third Reading



HB 141-FN, Relative to sunset review of the commission on human rights. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: HB 141 renews the Commission of Human Rights to six years. The hearing was held on the 23rd of March, no one spoke in opposition. It was exactly unanimously, so it was recommended that the Senate approve this today. It's a typical sunset bill, you will notice, as all the sunset bills or most of them in July 1, 1991 will be changed when the bills are enrolled, to 1993.

Adopted. Ordered to Third Reading

HB 121-FN, Relative to sunset review of board of registration of podiatrists. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: This bill was heard on the 23rd of March. No one spoke in opposition. It was unanimously requested that the bill be passed today. It's a typical sunset bill, once again, July 1, 1991 in enrolled bills will be changed to July 1, 1993.

Adopted. Ordered to Third Reading

HB 119-FN, Relative to sunset review of the pharmacy commission. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: The Executive Departments held their hearing to review the pharmacy commission through the normal sunset review and process. We decided and felt unanimously that the pharmacy commission is extremely well run and a very efficient commission. We recommend that it be renewed for the customary six years and ought to pass.

Adopted. Ordered to Third Reading.

HB 115-FN, Relative to sunset review of regulation of electricians. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: The Executive Departments heard this bill relative to sunset review of regulations on electricians and voted unanimously to renew the board to another six years. As in most of these renewed boards, there is a typographical error, as Senator Disnard has pointed out to you, and these will be taken care of in enrolled bills. We hope you will support the committee report.

Adopted. Ordered to Third Reading.

HB 111-FN, Relative to the sunset review of the board of accountancy. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: This bill renews the board of accountancy for six years. The hearing was held on the 23rd of March with no objections. We understand that HB 590 may address some concerns, but none were expressed on this day. Unanimous suggestion of the Executive Committee for the Senate, that this be passed. Simple sunset bill, once again we call your attention to July 1, 1991, will be changed to July 1, 1993, in enrolled bill process.

Adopted. Ordered to Third Reading.

HB 110-FN, Relative to sunset review of the New Hampshire retirement system. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: The Committee on Executive Departments held the customary public hearing, as regards to sunset review of the New Hampshire retirement system. The committee was extremely impressed with the financial stability and the efficiency of the retirement system. Also, there was testimony of its reasonable and adequate benefits. Therefore, the committee unanimously recommends ought to pass for HB 110-FN.

Adopted. Ordered to Third Reading.

HB 106-FN, Relative to sunset review of board of claims. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill renews the board of claims to six years. It also will allow the board of claims to settle payment of uncontested claims based on a review of the records without holding a hearing. In addition, the bill directs the Department of Corrections to handle claims against that agency and amounts up to \$500. It's the recommendation of the Executive Departments to support this bill as ought to pass.

Adopted. Ordered to Third Reading.

HB 116-FN, Relative to sunset review of funeral directors and embalmers. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This bill renews the funeral directors and embalmers board for six years. The bill amended the division relative to the composition of the board allowing a list of appointees to be submitted by the New Hampshire funeral directors and embalm-

ers association. The bill also clarifies the board's power to take disciplinary action as recommended by the attorney generals office, adds a division allowing the board to subpoena witnesses, administer oaths and to compel the production of papers and records. The bill also clarifies the penalty of RSA 325. The full amendment is printed on page 9 of todays calendar and there you can read all the details if you wish. The committee recommends ought to pass with amendment.

#### AMENDMENT TO HB 116-FN

Amend the bill by replacing section 1 with the following:

1 Sunset; Funeral Directors and Embalmers Board Renewed. Funeral directors and embalmers board, PAU 020610 (formerly PAU 020616), is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amend the bill by replacing all after section 2 with the following:

3 Board. Amend RSA 325:2, I to read as follows:

I. There shall be a board of registration of funeral directors and embalmers consisting of 5 members, including 4 funeral directors or embalmers and one public member, appointed by the governor, with the approval of the council, to serve terms of 5 years. [Appointments of funeral directors or embalmers may be made from lists of 6 qualified professionals submitted by the New Hampshire Funeral Directors and Embalmers Association.] No member of the board shall be appointed to more than 2 consecutive terms. The director of public health services, department of health and welfare, or his designee, shall serve as a non-voting secretary of the board.

4 Disciplinary Action. RSA 325:32, III is repealed and reenacted to read as follows:

III. The board may take disciplinary action in any one or more of the following ways:

- (a) By reprimand;
- (b) By fining;
- (c) By suspension, limitation, or restriction of certification for a period of up to 5 years;
- (d) By revocation of certification;
- (e) By requiring the person to participate in a program of continuing education in the area or areas in which he has been found deficient.

5 New Section; Summons; Oath; Witnesses. Amend RSA 325 by inserting after section 33 the following new section;

325:33-a Summons; Oath; Witnesses.

I. The board shall have the power to subpoena witnesses and administer oaths in any disciplinary proceedings, and to compel, by subpoena duces tecum, the production of papers and records.

II. Witnesses summoned before the board shall be paid the same fees as witnesses summoned to appear before the superior court, and such summons issued by the board shall have the same effect as though issued for appearance before such court.

6 Penalty. RSA 325:43 is repealed and reenacted to read as follows:

325:43 Penalty. A person shall be guilty of a misdemeanor if a natural person, or a felony if any other person, who:

I. Makes funeral arrangements or performs embalming without being licensed under this chapter;

II. Being in the funeral business, employs an unlicensed person, other than an apprentice, to make funeral arrangements or perform embalming, unless the person is exempted under this chapter;

III. Wrongfully or fraudulently procures a license under this chapter; or

IV. Violates any provision of this chapter or rule adopted by the board.

7 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 140-FN, Relative to sunset review of the police standards and training council corrections. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: The Committee on Executive Departments met on the sunset bill of the police standards and training council corrections. The director, Earl Sweeney, answered all questions and the committee recommended ought to pass.

Adopted. Ordered to Third Reading.

HB 139-FN, Relative to sunset review of the police standards and training council. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: The Committee on Executive Departments met on police standards and training council, again, the director Earl Sweeney spoke and answered all questions. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

HB 126-FN, Relative to sunset review of the commission on the status of women and making certain changes relative to the commission. Ought to Pass with Amendment. Senator Disnard for the Committee.

SENATOR DISNARD: This bill renews the commission on the status of women to six years. The requirement that the commission submit the annual report to the labor commissioner is deleted. The commission is required to submit the biennial report to the Secretary of State. This bill as amended administratively attaches the commission to the office of the Secretary of State and provides that the commission shall file its records in the office of the Secretary of State. The amendments are on page 10 of the Senate Calendar for March 25, 1987. If you have the bill in front of you, I hope you will notice that the amendments delete, on the first page of the bill, the last paragraph. What is deleted is, the members of the commission shall annually choose among themselves the chairman, vice chairman, treasurer and secretary of the commission. These amendments were requested by the commission; no one spoke in opposition. The bill was considered executive session, it generated a great deal of discussion and it was a unanimous decision of those who attended the executive session. So, I wish to call your attention to the report on the second page, there is a biennial report instead of an annual report, the report does not go to the Labor Commissioner, the report goes to the Governor and Council and added the Secretary of State and the last paragraph on page 1 was deleted.

SENATOR PODLES: Senator Disnard, could you please tell me if the commission is also going to submit a biennial report to the Governor and Council, in addition to the Secretary of State?

SENATOR DISNARD: Yes.

SENATOR PODLES: Senator Disnard, would you believe that for six years, this commission has not submitted any kind of a report to the Governor and Council?



SENATOR DISNARD: Senator Podles, if you say that, it must be true. I'm assuming with our new President of the Senate, he will check on this and see that it's accomplished.

#### AMENDMENT TO HB 126-FN

Amend RSA 19-B:6 as inserted by section 4 of the bill by replacing it with the following:

19-B:6 Report. The commission shall submit [an annual] a biennial report of its activities [to the labor commissioner and] to the governor and council and the secretary of state. Said report may include any recommendations it may approve for legislation.

Amend the bill by deleting section 3 and renumbering sections 4-7 to read as follows:

3,4,5, and6, respectively.

Amendment Adopted. Ordered to Third Reading.

HB 137-FN, Relative to sunset review of department of safety administration and support. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This bill renews the department of safety administration and support for six years. Most of the sunset committee staff recommendations regarding this unit could be accomplished in internal administrative actions and do not require statutory changes. In the testimony, we were told that many of the recommendations of the sunset committee were already in place and the few that were left over, they were working on. They were good recommendations, they weren't all enumerated, but we know what most of them were by reading the sunset report and we highly recommend that this bill be supported as reported by the committee.

Adopted. Ordered to Third Reading.

HB 130-FN, Relative to sunset review of fire standards and training commission. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: This bill is only a sunset bill. It does not address any other items that concern the members of the House and some citizens of our state. This body voted inexpedient to legislate on SB 216, which similar situations will be addressed in a House bill.

Once again I wish to indicate, at the hearing this testimony indicated, generated a great deal of discussion by one representative, but it contained new information that is forthcoming on a future bill. Only one person spoke in opposition and all the opposition was, hold this sunset bill until action on the future House bill. The committee did not agree with this, so, we are requesting that the Senate approve the renewal of fire standards and training council for six years and once again, July 1, 1991 will be changed in the enrolled bill process to July 1, 1993.

Adopted. Ordered to Third Reading.

HB 129-FN, Relative to sunset review of disaster office. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill renews the disaster office, which is part of the civil defense agency, for a period of six years. As the opinion of the executive committee, these departments which are run by James Saggiotes and Dick Strome, are very well organized and appear to be doing an excellent job. A few minor changes recommended by sunset will be taken care of through a recodification bill. The committee recommends your support of ought to pass.

Adopted. Ordered to Third Reading.

HB 128-FN, Relative to sunset review of civil defense. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill renews the civil defense agency for a period of six years. The same reference in the previous bill applies to HB 128.

Adopted. Ordered to Third Reading.

HB 118-FN, Relative to sunset review of board of optometry. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: Executive Departments met on the board of optometry. The House had no problems with this sunset bill and neither did the members of the Executive Department. We urge your support.

Adopted. Ordered to Third Reading.

HB 40, Relative to bond given by administrators of estates. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 40 allows the probate judge to waive the requirements for surety when the estate has the value less than \$25,000. The current law gives the judge this discretion when the estate is valued at less than \$5,000. It also gives the probate court discretion to waive the requirements for giving bond and sureties when the administrator of the deceased person's estate is the sole heir of the decedent. The amendment adds "and when the estate has a gross value of less than \$25,000, exclusive of property". The committee feels that this bill will reduce the cost and the burdens of estate administration and recommends ought to pass with amendment.

#### AMENDMENT TO HB 40

Amend RSA 553:13, III as inserted by section 2 of the bill by replacing it with the following:

III. In the discretion of the judge of probate, the requirements for the giving of bond and sureties may be waived when the administrator of the deceased persons estate is the sole heir of the deceased person, provided that the estate has a gross value of less than \$25,000, exclusive of property specified in RSA 554:5.

Amendment Adopted. Ordered to Third Reading.

HB 98, Relative to Adultery. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: HB 98 would repeal the statute relative to adultery. The committee felt that to remove the law, would have the state lessen the importance of the integrity of marriage, and it would also undermine the integrity of the family. The committee was unanimous recommending inexpedient to legislate.

SENATOR MCLANE: It is not with a great deal of pleasure that I rise to oppose the report of the Judiciary Committee. But, I feel very strongly that we are here in this legislature, to pass good legislation. I believe this is a necessary bill to clean up our present statutes. Adultery will remain a moral wrong in New Hampshire. This bill repeals the criminal adultery statute. But, it leaves intact adultery is civil grounds in divorce actions, including the grounds for divorce, property settlement and child custody. Adultery will be taken into consideration in these places. This bill passed the House 277-57, there was no opposition at the House hearing and in the Senate hearing, only Representative Healy from Manchester op-

posed the bill. Maine and Vermont have recently passed an identical statute, repealing the criminal adultery statute, but leaving intact the civil grounds. This law, as it is, is not enforced and never will be enforced. It is unenforceable because our law officers refuse to take upon themselves the problem of peeking into people's bedrooms to enforce the law. Under the present statute, there is no victim and no perpetrator. Both people charged under the statute are perpetrators. They must be charged and if found guilty, imprisoned under the present statute. There is only one time in this century, that this law has even been addressed in the courts. That was a situation with a Mrs. Stecklebeck who was in an act of harassment by her husband, whom she was divorcing, was charged under this old fashioned statute. I believe in this case, that Mr. Stecklebeck had to bring the charges himself because the police refused. Why must we repeal this statute? First of all, because it was written at a time when wives were chattel and that there was a right of men to call for, not only divorce, but their punishment if they were found guilty of adultery. Secondly and more importantly, this bill has never been used in this century, but the Representatives in the Judiciary told me that they had heard that it will be used and there are two or three cases coming forward now. So, if we do not repeal this statute, the harassment of innocent people will go forward. I ask you to repeal the criminal adultery statute and leave the civil statute on the books, as this bill would call for.

SENATOR HOUNSELL: Senator Podles, will the committee report you claim, by repealing this statute, be undermining the family unit, I believe what you indicated, can you elaborate on that? Because I think you understand that I certainly don't want to be involved in anything that would undermine the family unit.

SENATOR PODLES: This was the consensus of the committee; it was a unanimous consensus of the committee. This is the report that I have given.

SENATOR HOUNSELL: I'm just curious as to specifically, how this would undermine the family unit if there was any report?

SENATOR PODLES: I'm afraid I can't answer that Senator Hounsell.

SENATOR KRASKER: Senator Podles, can you tell me when this law was enacted?

SENATOR PODLES: This was in 1790, but in 1971, a lot of the statute was cleared and they left the adultery statute in there.

SENATOR KRASKER: The adultery statute dates back to the 1700's?

SENATOR PODLES: 1790 to be correct.

SENATOR HOUNSELL: I rise confused on how to vote on this bill that is before us. I certainly don't want to do anything that would undermine the family unit. I certainly don't want to give out some sort of message to whoever is watching us on this bill, that would make them feel that the New Hampshire Senate, and thereby, the New Hampshire General Court, in some way condones the act of adultery. However, I don't want to continue to support a bill, law or statute that may serve as an harassment. I look at the bill, I look at its history and I can appreciate the good that comes from it, if it was a law that anyone even thought existed. I think that the recent case in Nashua, which has been settled out of court and the introduction of this bill raises the question that we have before us. Is this statute necessary? Therefor, is this bill necessary? I am confused. I would like to have someone from the committee, if possible, expound on the committee reports to claim that by repealing the adultery statute, that we would be undermining the family unit. I would like to hear more about that, because I am confused.

SENATOR MCLANE: Senator Hounsell, are you familiar with the story about the Stecklebeck situation, the only time in this century that this law has been used?

SENATOR HOUNSELL: No.

SENATOR MCLANE: Would it be helpful to you, to know, that this legislature has worked long and hard to make the unpleasant problem of divorce more conducive to families staying together and more conducive to the work of keeping families communicating with their children. This bill, which was used in this particular case, as a tool of harassment, would mean that one member of that family, that had obviously fallen out of love, shall we say, with each other, would end up in jail with a criminal sentence, rather than in a divorce court working out their problems. Would that help you?

SENATOR HOUNSELL: What would help me is to understand the impact of the action on a bill might have. We have to do something, we have to do it today. If we do one thing, is it going to be more of a



negative impact than if we did the other? I think of families now in today's generation, where in a lot of instances there are two working parents, a school age child comes home and turns on the television and watches some of the soap operas that are on and watches the act of adultery being presented before their eyes. I'm concerned about that. I'm concerned about the epidemics of AIDS. In my mind that's kind of a spinoff of promiscuity. I'm also concerned about harassing people with a law that may be up there, but may serve a purpose. I stand confused, because I don't want to do the wrong thing. I want to do the right thing. I don't want to harass people, but I don't want to send bad messages. I don't undermine the family unit, but I don't know if doing that re-billing as we do it. I want to be a Senate that passes good laws.

SENATOR MCLANE: Would it be helpful if you thought of the fact, that what you are striving for is a law that proves that adultery is morally wrong, but would not be used as a harassment method? I feel it would be helpful to you, to look at the civil grounds for a divorce, that keep adultery in as a cause for a divorce, but don't permit a husband or a wife to send the other person to jail for an act that they have committed?

SENATOR HOUNSELL: I don't know. I look at what you are saying and then I think of the harassment part of it. There has only been one case in the century to have a lot of harassment by it. I have to come to this point, that is, the story of the adulteress that we find in the scriptures. When Christ turned to the people and he said, you who are without sin, throw the first stone. I'm looking for a comment from past laws and RSAs, I'm looking for philosophical commentary votes for harms of the family unit. I'm looking for some sort of morality here that we are addressing, that this is a moral issue. But I haven't had the moral issue defined, so that this would not be a good law to repeal. I'm leaning towards voting for it, but I'm not sure that's the right thing. I guess what I am, is still confused, if someone who supports inexpedient, could tell me?

SENATOR PODLES: Senator Hounsell, would you believe that you would be sending a message to the young people if you repeal adultery?

SENATOR HOUNSELL: I know you to be a most caring, most supportive person and figure in this state, for the family unit, I know that that's dear to your heart and I admire that. You're doing this because you believe in your heart that it is good. I would like to come

to that, but I don't understand the logic or the reasoning that brought you to that conclusion. I would like to hear more about it.

SENATOR PODLES: It is the message that you are going to be giving out to all of the young people out there and to everyone out there and that is very important. What you are going to be saying is, go ahead and keep on doing it, but if you repeal adultery, I think that it is going to hound the family unity.

SENATOR NELSON: Senator McLane, in your statement, you made reference to civil adultery which still remains within the civil statutes. Would you make the comment as to what that means exactly, in terms of adultery?

SENATOR MCLANE: If a law suit is brought under the criminal statute in this case, there can be an extensive fine and the people can go to jail for a year. Under the civil grounds, it is taken into consideration in a divorce action and they can use it as a grounds for divorce when the judge is making the property settlement and the child custody settlement. He can consider adultery and send the adulterer to jail, is the way to preserve the family and I would hope that you wouldn't.

SENATOR NELSON: I want to be clear in terms of the civil law that, in fact, does the judge have the option of imposing a penalty if adultery is one of the means chosen to pursue a divorce?

SENATOR MCLANE: I would say so, particularly in the case of child custody. If there is adultery continuing and they don't want the kids to visit, they have this right now and they will after this passage. The only thing they can't do is send both the husband or wife and the new romance to jail.

SENATOR DUPONT: Senator McLane, you keep alluding to the tremendous amount of harassment that is going on out there relative to the statute and also alluding to people going to jail. Can you name some specific instances where people have been sent to jail?

SENATOR MCLANE: I believe that I was very clear. The one case that has been brought in this century, was a case of harassment. It was the case of a Mr. Stecklebeck. Representative Jones of the Judiciary Committee told me, that since the House unit very overwhelmingly passed this bill, he has had calls from several attorneys who say that, new cases, harassing in a divorce case, bringing it under the criminal statute, have come to their attention and he pointed out to me the importance of passing this legislation.

The police refused to prosecute under the Stecklebeck case. If you want to leave it on the books and leave it up to the police to refuse to enforce the law, it would be your privilege.

SENATOR DUPONT: The bottom line would be then, that because the statute is not being enforced, then what we are really doing here, is voting on the morality of the issue, rather than whether or not the statute should be repealed.

SENATOR MCLANE: Absolutely not. The reason that you don't, is that the morality is still clear. The civil statutes say adultery is cause for divorce and can be figured in the property settlement and in the custody of the child. What I am saying is that it shouldn't be a crime punishable by jail sentence for the act of adultery.

SENATOR CHANDLER: I did not intend to speak on this bill, but Senator Hounsell has asked some questions and asked for some guidance in this matter. Therefore, I feel compelled to say something in defense of the committee report. One thing to remember is, we're not talking about divorce, we're not talking about child custody, we're talking about the act of adultery. If the people here in this chamber believe in the Ten Commandments, one says, "Thou shall not commit adultery". Making it a criminal act has been on the books for over a hundred years as everybody says, then I think to remove it would lessen people's concern about it and perhaps let somebody commit adultery because they know they cannot be punished in a criminal way, if this was taken off the books. I think there is a certain restraining thought about it, because having the law on the books, somebody that might be tempted to do it and knew that it was a criminal act in addition, might be restrained from doing it. I think that it would be a mistake, it would send the wrong message to the people and would sound as if this body was condoning it. Just to leave it on in divorce cases or child custody cases, that's all right as it might be. I think in this law, that only has adultery in it at the present time, that at one time it had a lot of other sexual acts included. Those were removed a few years ago, I think they should be restored. I think that we should make a lot of sexual activity outside the marriage, a crime and I think they should prosecute it. It might be a hard thing to prove, but it shouldn't deter anybody from trying to enforce the law just because it is hard to prove. There are a lot of other crimes that are difficult to prove and sometimes criminals get away with it because they only have circumstantial evidence. That doesn't mean that we should repeal the law, let it stay on the books where it belongs. I plead with the members of the Senate as a right, honest, honorable, moral thing to do, is to leave this on the book.

SENATOR JOHNSON: I didn't expect to get involved in this debate either. Senator Hounsell's comments caused me to likewise, feel somewhat uncomfortable on this issue. I personally believe that sending either party to jail over adultery, would do far more to undermine the family unit than otherwise. I looked around this room and noticed that there were a number of young people here. Several comments have been made, that this would send a message to these young people, mainly that the Senate was condoning this act, which I know it is not. I took the opportunity to go over and consult with five of these young people here and asked them if they have been following this debate, they indicated that they have been discussing it among themselves. I asked them for their own recommendations and I'm going to be guided by their recommendation, which was to vote in favor of this bill and it resolves the uncertainty that I had.

SENATOR KRASKER: I hadn't intended to speak on this, but I think we have to look at it, not in terms of the morality because the morality is there. I believe in the ten commandments, so I believe that adultery is a sin. In very practical terms, the reason it's not enforced, has only been enforced once in this century is because, instead of preserving the family, I think there is a recognition in the courts that nothing would be more destructive to the family, then putting one of the partners in a marriage, in jail. For that reason, I will oppose the committee report.

SENATOR PRESTON: I think Senator Krasker gave me one of the basis why I'm going to support the committee report of inexpedient to legislate. There are no hordes of people being dragged off to the prisons. If there were, then some people in this chamber would be in jail right now. Only having been enforced once in this century, I think it's extremely important, Senator Hounsell, that we convey a serious message. I do not want to dignify adultery by doing away with it. Frankly, in 1969 we retained adultery on the books, reduced it from being a felony to a misdemeanor. I think of the wisdom of the legislature, at that time, felt the same way about conveying the message, not trying to impose morals on individuals. They say state laws should reflect more races in society and I don't care to speak to that. But I can tell you this, it is my personal feeling that maybe if we do away with this, we can follow up with an amendment and say that when we promote New Hampshire, anything goes. Put in the blanks and give him liberty or die.

SENATOR HOUNSELL: Senator Preston, I do appreciate your words, as well as Senators Krasker, Chandler and Johnson, because I think that everyone who hadn't planned on becoming involved, has

become involved because they are interested on how to vote on this issue. It is a difficult issue, but they are searching and their taking their public stance. I guess I'm close to making up my mind, but I'm going to ask you this question sir. If there was a case that went to court in your estimation, it being a misdemeanor, do you think the judge would go so far as to put and incarcerate a parent, given all the particulars and ramifications, do you think that would ever actually take place?

SENATOR PRESTON: You don't, I don't and no one else in this room does, I am sure. Once in the century we had a person who had been charged with this. Once in this century, I think that's ludicrous, I think that will occur.

SENATOR NELSON: Senator Preston, what is your sense if this adultery will still remain within the civil codes and is removed from the criminal codes, do you think that we would still be sending the same message knowing that there will be a penalty within the civil codes in this State?

SENATOR PRESTON: Let's not tinker with this. Let's just kill the bill today and leave things the way they are. I'm not a lawyer, I'm trying to convey a message. New Hampshire stands for a lot of things, we have a different fiber in this State, let's stay that way.

Senator Hough moved the question.

Senator McLane seconded.

Adopted.

Question: Inexpedient to Legislate.

Senator McLane requested a Roll Call

Senator Dupont seconded.

Those in favor: Senators Bond, Hounsell, Heath, Freese, Dupont, Chandler, Disnard, Roberge, White, Podles, Delahunty and Preston.

Those opposed: Senators Hough, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Johnson, Stephen, Bartlett, Torr and Krasker.

12 Yeas

11 Nays.

Adopted.



HB 190-FN, Relative to district court venue in landlord and tenant actions. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: This is a bill that provides were actions between a tenant and the landlord should be considered, in other words, what court should they go into. The amendment is on page 10. The bill was amended to make it that, in both cases, the trial should be held in the court in the city or town where the building was located. That is an action to help the tenant, to protect the tenants rights, so that he would not be forced an absentee landlord if he lived in Manchester and the building was owned by somebody up in Berlin, it couldn't take the case into the Berlin court. You would have to take it where the building was located and where the tenant was living and make it easy for him to appear in a Manchester court where he lives, instead of going up to Coos County.

#### AMENDMENT TO HB 190-FN

Amend RSA 502-A:16 as inserted by section 1 of the bill by replacing it with the following:

502-A:16 Venue in Civil Causes. Actions shall be returnable to the district court of the judicial district where either plaintiff or defendant resides; except actions arising under RSA 540, relative to actions against tenants, which shall be returnable only in the judicial district in which the real property in question is located.

Amendment Adopted. Ordered to Third Reading.

#### RECONSIDERATION

Senator Preston moved reconsideration on HB 98, Relative to Adultery.

SENATOR PRESTON: I would like to move reconsideration at this time on HB 98. Two Senators have indicated to me that the parliamentary situation was such that they voted in error and would like to correct their vote for the record, which I think is a very admirable thing to do.

Adopted.

Question: To adopt Committee Report.

Senator Preston requested a Roll Call.  
Senator Bartlett seconded.

Those in favor: Senators Bond, Hounsell, Heath, Freese, Dupont, Chandler, Disnard, Roberge, White, Podles, Johnson, Stephen, Bartlett, Delahunty and Preston.

Those opposed: Senators Hough, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Torr and Krasker.

15 Yeas

8 Nays

Inexpedient to Legislate. Adopted.

### COMMITTEE REPORTS

HB 151-FN, Relative to sunset review of veterans home. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: HB 151-FN renews the veterans home for six years. The amendment changes the date to 1993. There was an excellent sunset report on the veterans home. As a matter of fact, when Kentar came to testify in favor of this bill before our committee, he mentioned the sunset report and also indicated, that on a national rating it's been judged as one of the best managed homes in the country. On behalf of the committee I recommend your approval.

### AMENDMENT TO HB 151-FN

Amend the bill by replacing section 1 with the following:

1 Sunset; Veterans' Home Renewed. Veterans' home, PAU 0503 (formerly PAU 0504), is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

HB 147-FN, Relative to sunset review of department of health and human services - division of mental health. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: HB 147-FN is another sunset bill, this time to renew the Department of Health and Human Services Division of Mental Health for six years. The amendment changes the date to 1993. Representative Butler from the House Health & Human Serv-

ices Committee came in support of the bill and said it was a clean bill that their committee had unanimously supported. Dr. Shumway came and testified in favor of the renewals, said he appreciated the recommendation of the Sunset Committee and are already implementing their recommendations. We ask for your approval.

#### AMENDMENT TO HB 147-FN

Amend the bill by replacing section 1 with the following:

1 Sunset; Department of Health and Human Services - Division of Mental Health Renewed. Department of health and human services - division of mental health, PAU 050205 (formerly PAU 050306), is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

HB 277, Continuing the task force to study mental health services. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: If you care to refer to page 674 of your Senate Journal for 1986, you will find the amendment establishing a Committee to study utilization review on mental health services. HB 277 continues that task force approved this year. We considered SB 170 last week, which is the initial work of this Committee and I urge you to continue the task force, so that, we can complete the work on the utilization review and other matters relative to mental health services.

Adopted. Ordered to Third Reading.

HB 230, Establishing a hotline for missing children. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: HB 230 establishes a hotline for missing children in the State of New Hampshire. The Department of Safety and the attorney general's office participated in the development of this bill. A toll free line comes into the state police headquarters now. The follow-up procedures are already in place, staff is in place and all that is necessary is to advertise an existing number. It is a needed bill and I would urge your approval.

Adopted. Ordered to Third Reading.

HB 699, Establishing a task force to study support services for families with developmentally disabled children. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: HB 699 is a very organized and well thought out bill. The Committee was unanimously in favor of it, as soon as the hearing was over. It was a very poignant hearing, because a woman named Pam Bartlett came with her son Kyle who is 3. He is a victim of something called BPD, which stands for Bronchial Pulmonary Disphagia. He has asthma, seizures and has developed mentally handicapped. He was in Concord Hospital for 12 months after he was born prematurely and has had thre monthly hospitalizations. He came in a special stroller with his mother and with the excellent sponsor of the bill, Representative Tupper. The Bartletts are his constituents. The purpose of this bill is to study and make recommendations to develop family support services for the family and for the child, to enable the developmentally impaired child to remain in the home environment. After about half and hour of being in the room with this child and this mother, you realize that for her to carry on the duties of this child with his Tracheotomy for 24 hours a day, day after day after day, is a tremendous strain on her and obviously on their entire family. It was very clear to us that, this woman was taking a State responsibility, that used to be one that would have fallen upon the State, because obviously this young man, Kyle, would have probably, 30 years ago, been at the Laconia State School. He is now home with his family obviously developing to his fullest potential by the strong support that his mother is giving him. It was obvious to our Committee, that a task force to come forward with recommendations to the general court, as to how the State can help these families meet this responsibility, is a very important priority.

SENATOR JOHNSON: Senator McLane, certainly I've asked the court the purpose of this, but my question has to do with the New Hampshire Developmental Disabilities Council and what role they have had in this regard? Have they been inattentive to the needs of families like you are describing?

SENATOR MCLANE: I believe that they have the best will of these families at heart. But the Division supported this bill very strongly. John Wallace came in for the Division. I believe that the council has put forward no program for help to this mother. This mother now gets \$100 a month in help from the council. I think it is obvious that she needed more than that. I think that what we felt was, that this isn't an appropriation obviously, but it is a study that would involve

these families in what is needed. The Developmental Disabilities Council was not brought into it. I think this is going to be a Legislative study and it certainly is a study that probably eventually will lead to some sort of State program.

SENATOR JOHNSON: Is this bill going to be saying that that council really hasn't come forward as an advocate for the family?

SENATOR MCLANE: I wouldn't think so in the slightest. I think it was very clear from meeting this woman, that the State isn't doing very much at this point, to help this sort of family.

SENATOR CHANDLER: Senator McLane, you think that perhaps the council could be abolished?

SENATOR MCLANE: There was no discussion of the council.

Adopted. Ordered to Third Reading.

HB 224-FN, An act establishing a study committee to ascertain the feasibility of establishing restaurants along the turnpike system where permissible. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: HB 224-FN establishes a study committee of four House members only, with a member from the Appropriations Committee and a Representative from the Department of Transportation reporting back to the Speaker. It has nothing to do with Senate. There is no Senate membership and we thought this more appropriately, should have been a House Resolution if it's going to pertain to House Members only.

Senator Disnard moved substitution Ought to Pass.

SENATOR DISNARD: I'm disturbed when I hear the Senate has requested to pass a bill because it's a House bill and the Senators are not involved. My answer to Senator Preston is perhaps, if he felt that way and the Committee felt that way, they could have amended it. The question in my mind is, would a study of this nature benefit the State of New Hampshire? If it would benefit our State, such as we're being a tourist state, our good State closes most of the rest areas during the winter. Talk to a tourist who comes through our state in the winter, late at night and wishes to stop for one reason or another. Our great State closes all those rest areas. It might be a good opportunity to the study commission to find out if this would



make available rest areas and rest stops, perhaps at no cost of the State, but benefit people. I would like to have you, as Senators, consider the study, we are only asking for a study committee. The great Senator of District #23 thinks there should be some Senators on that, he then, here in committee, could recommit, study it and amend it. I really believe we should look at this, will it help the State, no jealously of the House Committee.

SENATOR HOUNSELL: I rise in support of the Committee report of inexpedient to legislate. I would say that, this bill that is before us for our consideration, does call for unilateral chamber to be the body. I oppose ought to pass because of that. If I might ask a question of the chair, would lay on the table be an appropriate motion, so that a member might work on a floor amendment that included both chambers?

CHAIR: That would be in order, but someone else will have to move that question.

SENATOR KRASKER: Senator Hounsell, is there anything that precludes the Speaker of the House from setting up a House Committee to do this?

SENATOR HOUNSELL: No, the Speaker of the House can do that without a piece of legislation. I think to further answer your question, whenever the House expects the Senate to deal with it on an equal basis, they should at least send us a bill that reflects that.

Senator Chandler moved to lay the bill on the table.

Division vote:

14 Yeas

4 Nays

Adopted.

HB 565-FN, An act relative to off highway recreational vehicles. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: This bill requires ATVs manufactured after certain dates have certain safety pieces of equipment on them. It comes about as a result of a study committee in both House and Senate of which Senators Bond, Hounsell and Johnson were members. The amendment is found on page 10 and the changes essentially, were to change the dates for the manufacturer of ATVs to allow them to manufacture enough time, so the dates been changed

to mediate until 1989 in three of the sections. We have addressed a section on permission to operate ATVs as having written permission from certain owners or being able to operate on trails as recognized by dredge.

#### AMENDMENT TO HB 565-FN

Amend RSA 215-A:12, VIII, IX, and X as inserted by section 1 of the bill by replacing it with the following:

VIII. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, 1989, which does not have a working headlight which is designed to stay on at all times that the ATV is in operation.

IX. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, 1989, which does not have a working brake light on the rear of the ATV.

X. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, 1989, which is not equipped with a location on the front and rear of the ATV specifically for the placement of registration plates or decals, which measures 3-1/2 inches by 6 inches.

Amend RSA 215-A:29, XI as inserted by section 3 of the bill by replacing it with the following:

XI. No person or organized OHRV club shall operate on the land of another without written permission from the owner. Written permission shall not be required for operating an OHRV on an established OHRV trail as accepted by the chief supervisor of the bureau of off-highway recreational vehicles.

Amend section 5 of the bill by replacing it with the following:

5 Effective Date. This act shall take effect October 1, 1987.

Amendment Adopted. Ordered to Third Reading.

HB 215-FN, An act relative to certain expenses for laying out a highway at the request of a petitioner. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: This is a bill sponsored by Representative Benton. It was heard in the House by the Committee on Municipal and County Government. It's a fairly simple and straight forward

bill, having to do with who will pay the expenses in regards to the reopening of an existing highway, which has been subject to gates and bars. At the present time, the Town bears those expenses and those expenses have become a burden on such Towns as Chester, where Representative Benton lives. This bill would now shift those expenses from the Town or appropriately on the petitioner who stands to benefit by the petition. This bill is recommended ought to pass.

Adopted. Ordered to Third Reading.

## HOUSE MESSAGE

### HOUSE REQUESTS SENATE CONCURRENCE

HB 728, Relative to daylight savings time.

Senator Dupont moved that the Joint Rules be suspended to allow the passage of HB 728 after deadline.

Adopted.

Senator Dupont moved that the Rules of the Senate be suspended to dispense with the reference to committee, the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

SENATOR DUPONT: Members of the Senate, you have in front of you a bill that has gone to the House today. I am asking the suspension at this present time, and it deals with daylight savings time. Basically, there has been a change in the Federal Law and in order for us to be on the same time as the rest of the United States, we need to adopt this bill today.

Adopted.

SENATOR DUPONT: Basically, in a nutshell, the House has suspended the rules today, to allow this bill to be entered each into the House and brought to us. I haven't really followed the issue as it has made its way at the federal level, but instead of advancing the thoughts at the end of April, the federal law has been changed to move us up into the same time with the federal legislation. We ought to pass this today obviously.

SENATOR HEATH: Senator Dupont, your testimony indicates that all the other states are going to do it, because of the Federal Law. How is it that we were exempted?

SENATOR DUPONT: Senator, I couldn't answer that for you. I was asked obviously to move suspension.

SENATOR HEATH: Senator, isn't this whole issue of daylight savings sort of like cutting one end of a blanket off and sewing it on the other end?

SENATOR DUPONT: I agree with you there, Senator. The states' concerns are about the school children being out on the street after or before it's dark. I always assumed that that was the reason for doing it.

SENATOR HEATH: Senator, does this bill create or take away any light?

SENATOR DUPONT: Senator, to the best of my knowledge it does not.

SENATOR HOUNSELL: Senator Dupont, it appears we are going to do it because the Federal Government has told us. Would it be a lot easier just to repeal RSA 21:36, so that they can just make this decision for us?

SENATOR DUPONT: Senator, I assume that the representation we have to ponder us as Dana Christey has looked at this piece of legislation. I feel we have good representation down there and I simply voted for it. Further more, I'm just wondering if I really deserve this abuse of any bill?

SENATOR BARTLETT: Senator Dupont, isn't it true that several years ago, the State of New Hampshire passed its own daylight savings law and this would now bring us back into compliance with the Federal Law?

SENATOR DUPONT: Senator, some of the older members of the Senate might remember when that was passed, but I wasn't here at that time and I'm not sure.

SENATOR BARTLETT: Would you believe that that's the last time I'm going to get up and try to help you out?

Question: Ordered to Third Reading.

Adopted.

## ENROLLED BILLS AMENDMENTS

HB 169-FN, Relative to sunset review of Maine-New Hampshire interstate bridge authority.

Senator Chandler: This amendment corrects a typographical error.

Amend the bill by replacing line 3 of page 1 with the following: with RSA 17-G. The agency or program shall terminate on July 1, 1993.

Adopted.

HB 138-FN, Relative to sunset review of the department of safety-division of motor vehicles.

Senator Chandler: This amendment corrects a typographical error.

Amend the bill by replacing line 4 on page 1 with the following: agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

## ENROLLED BILLS

HB 55, Relative to the insanity defense and committal orders.

HB 109, Relative to sunset review of coordinator of highway safety.

Adopted.

## RESOLUTION

Senator Dupont moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage and all titles be the same as adopted and that they be passed at the present time.

Adopted.

## LATE SESSION

## Third Reading and Final Passage

HB 176-FN, Relative to sunset review of state board of auctioneers.

HB 172-FN, Relative to sunset review of New Hampshire housing finance authority.



HB 141-FN, Relative to sunset review of the commission on human rights.

HB 121-FN, Relative to sunset review of board of registration of podiatrists.

HB 119-FN, Relative to sunset review of the pharmacy commission.

HB 115-FN, Relative to sunset review of regulation of electricians.

HB 111-FN, Relative to the sunset review of the board of accountancy.

HB 110-FN, Relative to sunset review of the New Hampshire retirement system.

HB 106-FN, Relative to sunset review of board of claims.

HB 116-FN, Relative to sunset review of funeral directors and embalmers.

HB 140-FN, Relative to sunset review of the police standards and training council corrections.

HB 139-FN, Relative to sunset review of the police standards and training council.

HB 126-FN, Relative to sunset review of the commission on the status of women and making certain changes relative to the commission.

HB 137-FN, Relative to sunset review of department of safety administration and support.

HB 130-FN, Relative to sunset review of fire standards and training commission.

HB 129-FN, Relative to sunset review of disaster office.

HB 128-FN, Relative to sunset review of civil defense.

HB 118-FN, Relative to sunset review of board of optometry.

HB 40, Relative to bond given by administrators of estates.

HB 190-FN, Relative to district court venue in landlord and tenant actions.

HB 151-FN, Relative to sunset review of veteran's home.

HB 147-FN, Relative to sunset review of department of health and human services - division of mental health.

HB 277, Continuing the task force to study mental health services.

HB 230, Establishing a hotline for missing children.

HB 699, Establishing a task force to study support services for families with developmentally disabled children.

HB 565-FN, An act relative to off highway recreational vehicles.

HB 215-FN, An act relative to certain expenses for laying out a highway at the request of a petitioner.

HCR 9, Inviting Chief Justice Brock to address a Joint Convention on the state of the Judiciary.

HB 728, Relative to daylight savings time.

Adopted.

Senator Dupont moved that the Senate be in recess until Thursday, April 2 at 1:00 p.m. for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings.

Adopted.

Recess

*Wednesday, April 1, 1987*

Out of Recess.

Senator Freese in the chair.

## HOUSE MESSAGE

### INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 120-FN through HB 700-FN

shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

HB 120-FN, Relative to sunset review of plumbers board. (Executive Departments)

HB 240-FN, Relative to septic inspections on waterfront properties and relative to creating 3 new positions within the division of water supply and pollution control and making an appropriation therefor. (Development, Recreation and Environment)

HB 288-FN, Establishing an office of victim/witness assistance and making an appropriation therefor. (Judiciary)

HB 327-FN, Relative to funding for a pulp and paper technology program at the New Hampshire vocational-technical college at Berlin. (Capital Budget)

HB 364-FN-A, Establishing an air toxics control program within the division of air resources, department of environmental services and making an appropriation therefor. (Executive Departments)

HB 250-FN-A, Making an appropriation to the Conway village fire district, authorizing the Conway village fire district to issue bonds, and relative to funding waste water treatment systems. (Capital Budget)

HB 260-FN-A, Providing for the reconstruction of a section of Prescott Road in the town of Raymond and making an appropriation therefor. (Capital Budget)

HB 289-A, Relative to criminal records and making an appropriation therefor. (Judiciary)

HB 309-FN-A, Relative to the Nansen ski jump and making an appropriation therefor and repealing the Cannon Mountain Aerial Tramway Fund. (Development, Recreation and Environment)

HB 321-FN-A, Creating the Connecticut River Valley resource commission and making an appropriation therefor. (Development, Recreation and Environment)

HB 667-FN, Directing the legislative facilities committee to conduct a study of salaries for unclassified state employees and making an appropriation therefor. (Internal Affairs)

HB 700-FN, Permitting group II members who reach age 65 to make an election for retirement benefits. (Internal Affairs)

### HOUSE CONCURS

SB 73, To revive the charter of the First Congregational Church of Salem.

SB 230-FN, Reinstating the position of sealer of weights and measures in Nashua.

SB 87, Relative to the confidentiality requirement for explosive licenses.

SCR 1, Commemorating the Melvin Village Community Church in Tuftonboro.

### ENROLLED BILLS

HB 728, Relative to daylight savings time.

HB 106, Relative to sunset review of board of claims

HB 162, Relative to sunset review of the board of tax and land appeals.

HB 215, Relative to certain expenses for laying out a highway at the request of a petitioner.

HB 230, Establishing a hotline for missing children.

HB 277, Continuing the task force to study mental health services.

HB 699, Establishing a task force to study support services for families with developmentally disabled children.

SB 73, To revive the charter of the First Congregational Church of Salem.

SB 87, Relative to the confidentiality requirement for explosive licenses.

SB 230, Reinstating the position of sealer of weights and measures in Nashua.

### ENROLLED BILLS AMENDMENTS

HB 115-FN, Relative to sunset review of regulation of electricians.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 4 on page 1 with the following:  
terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 118-FN, Relative to sunset review of board of optometry.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following:

agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 119-FN, Relative to sunset review of pharmacy commission.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following:

agency or program shall terminate on July 1, 1933, subject to RSA 17-G.

Adopted.

HB 121-FN, Relative to sunset review of board of registration of podiatrists.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 4 on page 1 with the following.

July 1, 1993, subject to RSA 17-G.

Adopted.

HB 128-FN, Relative to sunset review of civil defense.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following.

July 1, 1993, subject to RSA 17-G.



Adopted.

HB 139-FN, Relative to sunset review of the police standards and training council.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 4 on page 1 with the following.

terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 137-FN, Relative to sunset review of the department of safety-administration and support.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 4 on page 1 with the following:

The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 130-FN, Relative to sunset review of the fire standards and training commission.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 4 on page 1 with the following:

The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 129-FN, Relative to sunset review of disaster office.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following:

terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 141-FN, Relative to sunset review of the commission on human rights.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following:

The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 140-FN, Relative to sunset review of the police standards and training council-corrections.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 4 on page 1 with the following:

The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 172-FN, Relative to sunset review of New Hampshire housing finance authority.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following:

The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 176-FN, Relative to sunset review of state board of auctioneers.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following:

program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 110-FN, Relative to sunset review of the New Hampshire retirement system.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 4 on page 1 with the following:

1993, subject to RSA 17-G.

Adopted.

HB 111-FN, Relative to sunset review of the board of accountancy.

Senator Chandler. This amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following:

program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

Recess.

Out of Recess.

## RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, April 2, 1987 at 1:00 pm.

Adopted.

## LATE SESSION

Senator Johnson moved that we adjourn.

Adopted.

*Thursday, April 2, 1987*

Senate met at 1:00 p.m.

Senator Freese in the chair.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we pray that you will always be with us and guiding us in the Right Way! Sometimes we become too sure of ourselves and take on too much - finally losing our goal! Like the dog with the bone, seeing his reflection in the water - opens his mouth to retrieve the other bone and finally winds up with No Bone! Lord, help us to be moderate and patient in all our work.

Amen.

Senator Torr led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

## ANNOUNCEMENTS

## NOTICE OF RECONSIDERATION

Senator Bond served notice of reconsideration on HB 126-FN

HB 126-FN, Relative to sunset review of the commission on the status of women.

## COMMITTEE REPORTS

SB 1-A, Establishing the New Hampshire land conservation investment program and making an appropriation therefor. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: You have in front of you an amendment that Senate Finance spent a considerable amount of time working on. What I'd like to address today is not the impact of the program or the philosophy behind the program, but strictly the financial mechanism that Senate Finance has decided upon in the manner, in which, it's going to address the funding. As you all know Senate Finance is suppose to strictly deal with financial implications of spending the state funds and not with the philosophy of the spending so to speak.

Senate Finance, under this amendment, has provided for a mechanism that will take twenty million dollars to be used during the first two years of this program out of the surplus that will be left after the rainy day fund has its monies, drawn from the surplus. Secondly, it allows for a mechanism in the following three years, after this bien-nium, by which ten million dollars per year, is also appropriated for the use of this program. That ten million dollars will be drawn in the following fashion: the original twenty million dollars is to be managed by the State Treasurer. The State Treasurer will invest those

monies and obviously will earn monies on those investments. The ten million dollars will be drawn after any interest earned on the original twenty thousand dollars is deducted from the ten million dollars appropriation. If there is not sufficient funds in the surplus fund at that point in time, to fully fund the ten million dollars per year, then the Treasurer is authorized to issue bonds to fund the balance of whatever is needed. We felt in Finance that this program was a commitment for a five year period of time and did not feel it appropriate just to address the next two years of the biennium. We felt very, very sincere in our efforts to make this program successful and after much deliberations we arrived at this proposal as a way of insuring that New Hampshire has adequate free space that is accessible by all the citizens of our state. I think that's a very, very important issue. The issue here is not just preserving land but allowing those members of our state the opportunity to have access to lands for recreational purposes and not just those who can afford to buy those lands for their own use. I feel very strongly about the program, I think Senate Finance has addressed it in an appropriate manner. I heard a comment from a member of Senate Finance that this state has committed hundreds of millions of dollars to clean up our rivers and our environment from that aspect and yet we've heard some reluctance on the part of members of the Senate to commit monies to preserve the beauty of our state through this program and I think it's an appropriate step forward. That is the committee report Mr. President and I urge its passage.

SENATOR HOUNSELL: Senator Dupont, in Development, Recreation and Environment we determined the policy and one of the things that came up and I kept saying, it will be addressed in Finance, is the matter of what effect will it be on the local communities on their property tax roles when the state acquires, through purchase, a piece of land. Can you tell me what the feeling from Senate Finance was on that?

SENATOR DUPONT: Senator, as you know in the bill, the bill requires the land trust board to notify the selectmen of the town that the parcel is going to be up for purchase. They would then post a notice and petition the board for a public hearing upon the request of ten registered voters. So, there would be an opportunity to discuss the financial impact on the community. Also, more appropriately, the bill would give the opportunity to communities and I've heard from a couple of communities and we know of some parcels over in our area that the municipalities would be interested in having purchased un-



der this program to preserve their natural beauty and I think that's more important. That aspect of it is one of the more important aspects of the bill.

SENATOR HOUNSELL: Having supported this concept and this policy as we passed it and do support it at a responsible level of funding I'm kind of vague. Is it that there was not a discussion about the effect on property tax roles in communities? That discussion did not take place in Finance?

SENATOR DUPONT: Senator, I can't tell you for sure whether that took place or not. Discussions, as you know, were ongoing for two days and the committee had a difficult time dealing with this bill and I'm not sure that was a priority in the discussions, but I know that it was mentioned at one point in time.

SENATOR HOUNSELL: Under the provisions of the policy that this Senate passed twenty-two to two, therefore showing strong support for the policy, we established that the board and the director would have to facilitate rules under 541:A. Can you tell me the urgency of full funding when it's going to take them at least a year to go through the process of setting up. Why is it so urgent to rush through the funding when it's going to take them quite a bit of time to set up?

SENATOR DUPONT: Senator, I don't think there's really any urgency to fund it at this point in time. I see no rush on the part of the Senate. As you know, we have a dead line to get bills such as this out of the Senate, which is today, if we want it to go over to the House, so that it can't be re-referred. I guess that's the only thing that drove the bill, not an urgency to get the program under way. We understand it's going to take some time. I think we also understand that particularly in the southern portion of the state, the rate of development is moving along at a lot faster rate than this bill is going to and I think from a fiscal stand point it's prudent if we're going to undertake a program like this to get the program underway and to get started as soon as possible.

SENATOR HOUNSELL: Is it then therefore sir, your sense if we delayed action until the April 9th crossover, that the House would not act on this?

SENATOR DUPONT: Senator, I can't tell you what the House will do or won't do. In the last couple of days I've seen some things over there that question my judgement about what they are capable of doing or not doing. So that's a question that I can't answer.

SENATOR HOUNSELL: I rise in reluctant opposition to the amendment before us. Not because I oppose a responsible level of funding, but that I determine that this level of funding, that is proposed by Senate Finance, to be irresponsible. If this piece of legislation is passed, I certainly hope that the first piece of land that the trust acquires, will be that mystical forest that has trees with money growing on its leaves. I'm a little amazed that the usual restrain Senate Finance Committee would be offering an amendment that's two and a half times more than what was requested by the sponsors, by the proponents. This Senate can do a responsible thing at this time on this bill. We can find that level of funding that is responsible, that is expected and is something that we can be proud of for this biennium. For us to stand here and dedicate money from a surplus from bienniums that haven't even transpired, I don't know the economic cycles. Senator Dupont alluded to, he can't guess what the House will do. I can't tell you what the economic indicators will lead us to. What I'm saying is, for us to continue to be responsible, we will have to do that on a biennial cycle. If we were to commit a level of funding that is indeed appropriate, I assure you that the sense that we have committed ourselves to this program would be realized by the people of this state. I think that the Senate Finance committee has been excessive. I think that certain people who are behind the drive to get this program started are being greedy and I oppose it for that reason. There are other things we have to consider before this session is done and I don't count this as unimportant but I count this amendment as excessive and it's for that reason that I oppose it.

SENATOR DUPONT: Senator, we had a discussion about the appropriate use of the surplus and I think we all would hope that there would be a surplus at the end of the next biennium and the biennium after that because we all, I guess, feel a surplus is better than a deficit. Would you just outline for me what you feel the surplus should be used for if there is a surplus at the end of this biennium?

SENATOR HOUNSELL: I'd be more than happy to. A surplus indeed is better than a deficit. But an excessive surplus does a particular harm that sometimes legislatures forget. It drains the money supply of the private sector. If we have a surplus after we have met the spending needs that this general court and the Governor sign into law, and we took more money than we needed, then it would be appropriate in my sense, that we roll back taxes, that we roll back real estate transfer, that we roll back business profits, we roll back rooms and meals. I see surplus as over taxation and I think the simplest way to address over taxation is to roll back taxes. The only

time that I hear that is during campaigns, but when it comes down to the time when we have that choice I don't see people considering that as an option. So to answer your question again, the appropriate use of the surplus is to roll back taxes in the next biennium.

SENATOR DUPONT: Then it's clear that it should not be used to expand existing programs that meet operating needs of the state, but should be used for something other than the expansion of those programs.?

SENATOR HOUNSELL: It should be used whenever we can, we should put it to the roll of back of taxes. Being a realist, I know that's an awful hard thing to do, sir.

SENATOR DUPONT: Senator would you believe that the likelihood of the surplus for what you propose is fairly slim?

SENATOR HOUNSELL: I would say that the likelihood of it, if the Senate capitulates it, is nill.

SENATOR DUPONT: Senator, so you probably also believe that we should put it to some good use, wouldn't you?

SENATOR HOUNSELL: I would say another good use would be reducing the bonded indebtedness that we've already acquired. Maybe we can pay off the tramway.

SENATOR DUPONT: A Senator just informed me of something that happened this morning in Internal Affairs and I'll just preface my question by a couple of remarks. We had someone in this morning talking about the session laws that we create each session and how, that with annual sessions, they don't have an opportunity to print last sessions laws before we start passing laws in this session and we are outdating at a rapid rate what we did last session. In other words we're passing new laws that over turn what we passed last session. Would you agree with me that, next legislature, if you really object to the bonding proposition in the final three years of this bill, certainly you're going to have an opportunity to look at that and determine whether the program is appropriate or not and take action to over turn what we did this session?

SENATOR HOUNSELL: This is the key to it, my objection to that is, that that it will take a perceived negative vote against the land trust to do it. What I'm saying is that, we can fund this in this biennum and do it in a responsible manner, without tying the purse

strings of the next bienniums and that's my objection. Not that we fund it, but that we don't go hog wild as we fund it.

SENATOR MCLANE: I am asking the Senate today, to look at the picture of what is happening to New Hampshire, the fastest growing state in the Northeast. To realize that 50 million dollars is very little when compared to the 4.7 billion dollars in real estate that changed hands just last year. In one year 4.7 billion dollars, 50 million is but one percent of that. We're talking about a five year program and I find I resent Senator Hounsell using the word greedy to describe the people that are giving their money to help New Hampshire make this step. Senator Hounsell spoke of the tramway and the bonding for the tramway. We wouldn't have the tramway today unless some farsighted New Hampshire people had organized a group of school kids to put in a dollar a tree or maybe it was a penny a tree back in those days, and I believe it was a penny, to buy that land for future generations. The Old Man of the Mountain could have a house sitting at the bottom of it right now, if it weren't for that foresight. So, I am asking you today, we have a plan that has been worked on by leaders, not greedy people, but leaders of this state who care about this state and care about preserving its land. I'm asking the Senate to use some vision to think about what's happening and to realize that 50 million dollars is a one percent of the real estate that has changed hands in one year. If we wait a year it's going to be more that changes hands. The time is now. The Senate Finance committee has a done a great job at funding the immediate needs. You ask if the money can be used quickly and I'm telling you that over three hundred thousand acres are seen right now as eligible to be purchased by this state. The whole 50 isn't going to purchase less than half of that. The land is there, the money is there. I'm asking you to take this giant step for not mankind, but, New Hampshire.

SENATOR TORR: Senator McLane, don't you believe that by this legislation we're sending a strong message to the State of New Hampshire and to the private sector, whereby, there should be large contributions coming in as a result of this action?

SENATOR MCLANE: I believe so and I really am sort of angry at the thought that they could be termed greedy. I think people are putting significant amounts of money up to help with this program, to help with the surveying, to help with the finding of this land. I think the State has got to do their share and I think that's all this amendment from Senate Finance does. It says, we'll make our commitments, go ahead and make yours because that funding is ongoing

right now, they have 1.2 million and they're trying to get to 2.2. The only way they can do it is to have the state stand behind the plan.

SENATOR TORR: Would you agree to the fact that with the diversification of the purchase of land rights, easements, conservation easements throughout the state, it certainly wouldn't impact the tax roles of any community to any great degree.

SENATOR MCLANE: I think that we all have great visions of how much 50 million dollars will buy. It sounds like a lot to us. But really in terms of acreage it isn't very much and I think that the whole point of the program is to focus on those precious acres that will make the greatest difference, the river banks, the wildlife habitat, the beautiful places of this state and I think with every municipality out there vying to get this state money, they're going to be looking at the whole state and finding the best land.

SENATOR ST. JEAN: Senator, you stated earlier that if we being the state, come up with 50 million dollars, that will encourage business entities within the state to contribute. If that's the case, then in terms of the children's trust fund, if we put up a lot of money do you think it will be the case in that regard?

SENATOR MCLANE: I think the children's trust fund is a wonderful case in point. Here is the cause that we all espouse, we all wear our badges, we care a lot about child abuse. Eleanor and Rhona went and twisted the arms of all of us, I think they got a hundred bucks out of everybody in this Senate. That's a lot of money, but the minute they stopped, nothing has happened since and I think that's what you have to believe. That money isn't going to come trickling out of the woodwork unless you have a program, unless you have people going to ask and unless you have a whole exciting thing that people can give to and feel part of and feel proud of.

SENATOR PODLES: I support the effort to preserve our most precious lands. The area I don't support is the funding of 50 million dollars. The package is presented to you at a cost of 50 million dollars. Twenty million dollars up front and the thirty million dollars over the next five years. In Finance we were asked to vote the package up or down, 50 million dollars, I voted it down. I'm concerned about the funding. We're counting on a surplus, chances are it might not exist. What then? The bonding? The interest plus 30 million dollars will be very costly. I sense a strong positive attitude of good will toward this 50 million dollar plan from some of the Senators. But I



think we should exercise caution, because spending trends if they are not moderated, we will again face the prospect of increasing taxes and also having deficits. You will also plunge us into a broad base tax which will increase already the financial burdens facing families. Senator St. Jean just mentioned the childrens' trust fund. We had to scratch to get \$100,000 to establish a trust fund and when we did it it was a very complicated matter. It is now two years and that trust fund is not off the ground. Where are our priorities? Just a week ago I had an immunization bill that was going to prevent communicable diseases for children. There were some Senators that stood up and said it was going to be costly, in fact some of them voted for it. This was to protect our children, our New Hampshire children. I would urge you to vote against this 50 million dollar appropriation.

SENATOR KRASKER: Senator Podles, you talk about a 50 million dollar appropriation, but from what I've been lead to believe by other members of Senate Finance, we're really talking about a 20 million dollar appropriation, ten and ten and that the additional 30 million dollars in bonding is not binding on the next legislature, but would be considered in the light of the financial state of the State at that time. Is that correct?

SENATOR PODLES: No, it isn't correct! What you're talking about now is 20 million dollars up front and then in the next five years the 30 million dollars. You're saying that this could be repealed. The rainy day fund was tried to be repealed, but it wasn't successful and this would be just as difficult. Once it's there it's very difficult to repeal.

SENATOR KRASKER: But would have to be implemented by the next legislature. Is that correct?

SENATOR PODLES: No, I don't think that's correct. It is now implemented by this legislature and what we're going to do is saddle the next legislature and saddle the next generation for the 30 million dollars.

SENATOR BLAISDELL: As Chairman of Senate Finance, Mr. President, and I suppose, responsible for the way the bill came out, I would just like to tell the Senate that that was the only proposal before the Senate Finance Committee. And I might add, Senator Podles, you had every opportunity to bring in another proposal, but you did not bring in that proposal, so I had to bring out something

that would get the discussion on the floor of the Finance committee and bring out what I thought and what other members of the Senate Finance committee thought a proper proposal. I'd just like to remind this Senate, there's no more land, you don't make land in New Hampshire anymore. In fact, Senator Torr made mention of it yesterday in Senate Finance that he lost some of it with the rains that we've had in the last few days. I tell you, we don't make land anymore and it's a very precious commodity I think in New Hampshire. One that I think is for our children and it is for our grandchildren. We are a tourist oriented state, we ask people to come here and yet all we're doing now is putting a lot of asphalt, mortar and bricks up. I'm asking you to vote for this proposal, I think it's a sensible proposal. I believe truthfully that the mechanism of the 20 million going in after the rainy day fund is a proper use of the surplus that we have in the State of New Hampshire. Then I disagree with what has been said on the Senate floor, there's not any checks and balances on this bill. There are lots of them in the bill if you want to read it. I think that you'll find that we cannot bind them of the legislature whether you want to believe that or not Senator Podles, we cannot. If at times, run deep like they could, anyone who watched the stock market the last couple of days and some other signs, probably we could run into some problems. But there are mechanisms there that will protect New Hampshire. We can either bond it or take it out of the surpluses that are there. It's triggered that way. I think it's a great investment in New Hampshire, it's not a liberal investment. I think it's an investment to protect our children and our grandchildren and their grandchildren and it's not for the rich, as everybody seems to think it is. The rich have all the land that they want, I believe. I think it's for those average people in New Hampshire, probably like me and a few others in this room, and I think that's what we should be doing, we should be looking ahead. Save New Hampshire for what it really is and you should vote for this bill as it is right now.

SENATOR BARTLETT: Senator Blaisdell, so that I may understand just what happened in Senate Finance, and also, the members of the Senate, the amount of money that's appropriated from surplus and surplus alone, is how much?

SENATOR BLAISDELL: Twenty million, after the rainy day fund.

SENATOR BARTLETT: When will that money be available to be spent?

SENATOR BLAISDELL: I don't have the amendment in front of me Senator, I believe it's 1987.

SENATOR BARTLETT: If we refer to paragraph 2, you notice there are sums of ten, ten and ten. Is it not true that if the legislature that follows us decides that they don't wish to spend those funds, they have no obligation to do so?

SENATOR BLAISDELL: Absolutely true. That's in the bill itself, right there.

SENATOR BARTLETT: If I were a physical conservative like you, and I use that word in all sincerity, would it not be best to reduce the amount of surplus to contain spending in the next biennium?

SENATOR BLAISDELL: Absolutely and that's exactly why the twenty million is there. If anybody wants to read it into the bill, that's why the twenty million dollars are there, so it can't be spent in other areas. You ought to look at that.

SENATOR ST. JEAN: I have a question of this new economic principle that's just been brought out here on the Senate floor. As I understand it, we are going to now appropriate 50 million dollars so that money won't be spent?

SENATOR BLAISDELL: You're not looking at it through your tan. That's not true, we're not talking about 50 million Jimmy, we're talking about 20 to start with. You know that as well as I do.

SENATOR ST. JEAN: Could you explain that principal that was just mentioned about how we're going to actually save money.

SENATOR BLAISDELL: Senator, if I couldn't explain it to you in Finance for the couple of days that you were there, I certainly am not going to be able to explain it to you right now.

SENATOR ST. JEAN: Would you believe that that was my problem, supporting the legislation, because you couldn't do that Senator?

SENATOR BLAISDELL: That's right Senator

SENATOR PRESTON: This is what makes this Senate something special, Mr. President that we can chide each other in a good nature manner, I hope.

I'm a sponsor of this bill and I did convey my feelings to Senate Finance yesterday and I have privately, long before the deliberations were completed, urged that there be a more frugal approach to

this piece of legislation. I had suggested small amounts of one million and five million. I am convinced that we are conveying a big spending image. Reading the newspaper of yesterday, there were House actions, and I know we have our actions in the House and Senate, that there would be no general fund remaining for a proposed land trust out of the general fund, if we were to adopt what was recommended over there and I'm sure we won't and the land trust would have to be totally bonded. Right or wrong that's been mentioned. I'm a sponsor and this is a very idealist piece of legislation. I think it's an excellent idea but it's overly ambitious and I think you're trying to take too big a bite of the apple at this time. I am not going to condone diminishing the surplus in its entirety and I don't consider, frankly, this as my highest priority. I don't care how it will finally be addressed in a committee of conference, as a Senator I want to convey to everyone that this is a little too rich for my blood, and I don't think it addresses some of the real concerns that face us. Senator McLane, I don't think 4.7 million dollars is all bad! I've heard figures quoted in Senate Finance and from some of the lobbyist from this issue, that 4.7 billion dollars could be the transfer of an industrial building down in the city of Nashua for ten million. It's not necessarily a commercial development on Iron Road up in Jackson. I think there are a lot of scare tactics being used that New Hampshire's facing the fastest growth and development of any state in the nation. New Hampshire is over 84% forested today. Municipal governments, local, state and federal, own 12 to 15% of the land area now existing in the State of New Hampshire. I hope after deliberating this bill today, those of you that support this 50 million will be as compassionate when I present an amendment on the Senate floor. I have to say, is this really a people's bill and by that I mean all people's as I said in Finance yesterday. I'm firmly convinced that the fourteen million dollars that I'm going to ask you for for the secondary treatment plant in Manchester today is as important or as critical as anything you're talking about right now. We sat in a hearing the other day of Senator Torr's committee that for two sessions we've put off removing asbestos where the State Librarians are and the talking books and so forth because we didn't want to spend four hundred thousand dollars. Maybe it sounds corny now, this is the third Senator to mention the childrens fund, and I respect you wearing your badge Senator McLane and I see a lot more badges around for the land trust, but don't I wish that that bill and that trust fund had the same enthusiasm from the same high pockets as this particular bill does, so that we can get it off the ground. No, don't tell me to pass and correct in the next session. I want to address it now and I want you to help me address later in this session what I think is

some real problems having to do with cleaner rivers and clean water and decent sewerage facilities for some of the communities for this State. Thank you.

SENATOR PRESSLY: We so often hear about the quality of life in New Hampshire and if you stop a minute and think about that, what really do we consider the quality features and aspects of New Hampshire? The things that we hold near and dear? The compelling force that draws people here and attracts you and makes your life worthwhile? I happen to feel that it is the natural beauty that has been passed on to us by our forefathers. We as a community, as a society have been entrusted with the natural beauty that was here when we arrived and I think it is our obligation and our duty to see that it is preserved and made available and it remains there for the generations that come after us. It's been quite wonderful to watch this idea grow in the State of New Hampshire this year. It really has been a grass roots effort. People, out of concern and fear as they have seen the quality of their neighborhoods and their communities dissolve and black top come in where their parks and their trees used to be. In sheer desperation they have banded together and have said what can we do? They have found an idea and it has grown and it has developed. It has spread from community to community. We have all seen this happen. This is a true grass root peoples movement, an effort to say we care about our community, we care about our quality of life and we feel it is important that we see to it, including the air quality and the water quality, see to it that it is there for the future generation. The changes that are happening in New Hampshire, many of them are irreversible and in order to prevent them, many of these changes that do offend us, we must preserve what is there. I, too, feel that this is a true investment in the people and in the quality of life that we have in New Hampshire. Thank you.

SENATOR WHITE: I rise in strong support of the land trust. I think the time has come and we are here as Senator Pressly has said, to preserve the quality of life that we have in New Hampshire. I do object, and I have objected in the past, to some of the methods of the funding of the trust. I had indicated in earlier times that I felt that we should probably go as high as \$25 million, today after we hear the profligate spending that's going on the other side of the wall, perhaps we should go to \$30 million and use that from the surplus as the first charge of this legislature.

Back in 1978 when I was a selectmen, the State had a tremendous surplus and so, they called back in special session because it was obscene to have a surplus of that size. It took them almost into Octo-



ber and November before they could determine how they could spend all the money they had. The way they spent it was to increase the operating expenses for the State of New Hampshire. After that, the revenues no longer came in and you couldn't cut out anyones program because it was already built in. State government doesn't cut back after they've given someone some money, they just keep increasing it. What percentage increase shall we give them? And so we then went on another spending spree and spent ourselves into a deficit. We finally have come out of a deficit and we have a surplus. I urge you not to get into that same cycle of spending money just because we have it on operating expenses. As I've said when the bill first came from the Dev. Rec. committee, I indicated at that time, that I supported the bill with at least \$20 million coming right from the surplus. I again stand before you saying, let go at least \$20 million from the surplus, the bonding that is in there, there is no way that we can bind any future legislature. If that's the hang up, take the bonding out of the bill and let's go. But let's spend at least \$20 million, as I've said, I'd even go up to \$30 million today. That would give us at least a little leverage against the House because they have spent every cent of money that is in the surplus and we're going to be back here next year spending more money. We are in a good time, the economy is good, but if you listened to the news last night the prime rate, for the first time, is being raised. What happens if it keeps going on? And what happens when this administration changes office and we get a spending person who's down in Washington and suddenly business can no longer support, they no longer have the business profit tax, we no longer have a real estate transfer tax, then what are we going to do with all that money? So, I strongly urge that we spend at least \$20 million on the land trust. It's a very good program, its time has come, especially down in my area and over further East of us, we need to start putting some of that land aside for the future generations and that's why in the past, as I've mentioned before, I have been against the Connecticut River Valley because I felt we should do it for the whole State. The land is there, in my district two huge parcels of land were donated before the land trust went in. Representative Phil Heald and his family gave an excess of 200 acres to the State of New Hampshire for preservation out of the Wilton Temple area. In Peterborough, the Gouyetts gave quite substantial acreage to the State of New Hampshire. There are people out there that are willing to give the land and some apparently are willing to take less than the market price. Now is the time to do it and I would hope that we could do it to preserve the land, preserve the State, preserve the quality of life that we have today.

SENATOR BLAISDELL: Senator White, you're absolutely right, we did have some conversations on this and you came in and granted your time to us to speak on this. Do you realize Senator White that when we put in the \$50 million figure, that we were trying to portray to the people of New Hampshire that we had a \$50 million commitment to the land trust, but also, with that triggering mechanism in there, if things did go bad like you talked about and others of us are very concerned about it, that at least we would be telling those people out there that put their money into it, that New Hampshire Senate and House were committed to that \$50 million project. I have no problem with what you're trying to do, if you think \$20 million is the way to go, you wanted \$25, I cut it to \$20, we went into the bonding feature but with the trigger mechanism in there, all we did was tell the people, Senator White, that our commitment was there and that was the reason for it. Would you like to talk about that?

SENATOR WHITE: Certainly Senator, I think the good thing about the Senate is that we have a journal that picks up the recorded words that we say and I think it is important that we go on record as saying that we support a program that will eventually cost the State of New Hampshire \$50 million. I'm committed to a \$50 million project, I think that you're not going to be able to spend it all in two years, we cannot bind any future legislature beyond these two years, so let's spend at least \$20 million now. I would spend more, I told you that. It's on the record for anyone to look at. The journal in future days will say yes, the Senate did stand and say they were committed to a \$50 million project, but not \$50 million out of this biennium.

SENATOR MCLANE: Senator White, you are, I think, the third person who has gotten up and said, "I'm in favor of the land trust but". It seems to me that we are down to the final day, this bill has been through our appropriate committee, it has gone down with the 22 to 2 vote into Senate Finance, Senate Finance has wrestled for two weeks with the funding as we all saw fit. Again and again we say that bonding cannot, in a future legislature or taking out of surplus as is provided for and a future legislature cannot bind that legislature. It seems to me that we have a lot of ideas for how to fund this program and we now come to the moment. If you're in favor of the land trust it seems to me that you would vote yes on the bill before you because I find it hard to believe that people are in favor of the concept and yet want to gut the program by not putting our money where our mouth is in this first instance.

SENATOR WHITE: Senator, I would hope that before the final vote is taken on this particular bill that there will be amendments that

will be proposed to the Senate that will come out and eventually I would hope that the entire Senate would go with at least a \$20 million project. As I said, I had hoped we could have something greater than \$20 million, but I think \$20 million is indeed a very strong commitment. You're talking 40% of the entire project of \$50 million. We're putting up that cash. That will be the first draw come the beginning of the biennium. So, I think that we are putting up the money, we are saying that we agree with the land trust. I would hope, if we find when we're back here in 1988, that we have some more money that we can at that point say, look we still have a little bit of money left, let's give another \$10 million to the land trust. I have no problem with that. We're here every year, let's see where the money is, let's see how much money has been spent. I understand they've spent quite a bit of money on the other side of the wall, it boggles my mind. Where do they think the money's coming from? So I think, take a little today and take a little tomorrow. When Finance kills a simple little bill that only appropriates four thousand dollars, I think that \$20 million is a big step forward.

SENATOR HOUNSELL: Senator Preston, there's been a lot of claims that there's an urgency, that the time to act is now. It almost gives the impression that New Hampshire is on the brink of becoming total concrete and asphalt. Do you have an idea, or can you provide us with an idea of what percentage of New Hampshire's land is undeveloped?

SENATOR PRESTON: Well Senator, I said that 85% of it was forest and there's about five million, six hundred thousand acres of land in New Hampshire and five million, three hundred thousand of it is undeveloped. It's not in private, urban or commercial use. In other words 96% of New Hampshire land is open space at this time. Those figures come from State Planning.

SENATOR HOUNSELL: Do you kind of sense that maybe it's an overstatement to say that it's urgent?

SENATOR PRESTON: Urgency varies in its interpretation to each individual, I don't agree with that at this time.

SENATOR HOUNSELL: Senator Blaisdell, you indicated that most people didn't come to offer alternatives. Just to set the record straight, did I offer your committee a proposal albeit unacceptable?

SENATOR BLAISDELL: Yes, you did Senator. No question. I have no problem with that, but I thought the committee member was the one who would be presenting that amendment. I thought you were

handing that to your committee member and I thought it was Senator St. Jean you handed it to. I think Senator Podles also looked at it. They had every opportunity to present that at the committee and it was not presented.

SENATOR HOUNSELL: I didn't make it known to you?

SENATOR BLAISDELL: Oh, absolutely, I made sure Senator, that your speech was read into the record, if you remember. You came to me and said that you had to go to another hearing and I recognized that. I made sure that Arlene Burns from the President's office was recognized right away to read your speech into the Senate. I had no other vote from any other committee member to present your proposal.

SENATOR HEATH: I didn't intend to speak, but when I heard the suggestion made, that some of us were perhaps not sincere in our commitment towards forests and trees because we didn't like the funding level at this time and the way the funding mechanism worked, I thought it was incumbent. I wore today my campaign button for this last election and I think it's the only one in the Senate that has trees on it. My last one had trees on it. I suspect if I run again, my next one will have trees on it. I've been committed to this kind of a program and I will be committed to it in the future. I don't intend to lessen that commitment and I suspect many of us in here who feel that this is not the way to do it are committed now to this kind of program and will continue to be, but we should not bankrupt the State in the process of doing it. I think some moderation is in order.

SENATOR PODLES: Senator Blaisdell, would you believe if I told you that the reason why I did not propose any kind of amendment in Finance, was that, you had the votes in Finance for the \$50 million package?

SENATOR BLAISDELL: That's the reason Senator, that you didn't present it?

SENATOR PODLES: Right.

SENATOR BLAISDELL: Well, I guess I believe you then.

SENATOR TORR: Senator Heath, do you believe if in fact we use \$20 million of the surplus, which is based obviously on a cash basis, doing business is going to bankrupt the State of New Hampshire?

SENATOR HEATH: Individually no, collectively with all the other things we're doing with surplus, yes. In so far as, a State can bankrupt itself. What we do is that we overestimate the revenues, spend against those incorrect estimates and then run up a deficit. I spent four years in the legislature under Governor Gallen's administration seeing that process taking place. To my mind, that's bankruptcy whether you declare it or not. When you're spending against the future, you're spending money that you don't have. When you're inaccurately estimating revenues and we do poorly enough with the best of information, but when we want more money the legislature tendency is to say, oh there's more coming in therefore we can spend it. So, in so far as a State can be bankrupt, yes I believe that is the big peg in that you could call bankruptcy

SENATOR TORR: Senator Heath, wouldn't you believe that one time expenditures are the right way to travel rather than using your surplus to spend into your budget, creating an atmosphere whereby you have to fund that in the future?

SENATOR HEATH: I'm not sure I fully understand the statement that you're making.

SENATOR TORR: What I'm saying, Senator Heath, one time expenditures occurring such as this, the \$20 million being appropriated out of surplus to this cause, is a better means of spending our money rather than spending that money in the operating budget.

SENATOR HEATH: Not entirely. I think it is better than bonding it.

SENATOR HOUGH: I rise in support of the bill and I rise in support of the Finance Committee's amendment. I can tell you that, through the efforts of Senator Dupont and Senator Torr and the whole committee as far as that's concerned, including Senators St. Jean and Podles, we spent an exhaustive amount of time recognizing our charge as this bill as it was sent to us, had the support of this Senate. It was well understood many weeks ago when the Senate passed this bill in principle from the Committee of Jurisdiction, that this Senate was in favor of this bill. Senator Hounsell indicated at that time, that it was up to the Senate Finance Committee to explore the various possibilities, some of which had been suggested by the Governor, others had been rumored by members of the House. What the Senate Finance Committee amendment does, and make no mistake about it, is take a very responsible position as far as this bill



is concerned and it sets the perimeters. We are not establishing a program that is open ended. We are establishing a program that is five years in duration and then it will go out of existence. That's the concept and that's the understanding and that's the purpose of this legislation from its inception. Not only are we recognizing the perimeters here of five years, we are recognizing a value, if you will, that has been established after years of research involving members of the private sector, members of government, members of industry, people from all over the State of New Hampshire and they have established this value. It is only within this very day that it establishes the perimeters, it appropriates after monies that are surplus to go into the rainy day fund. After that obligation has been made it appropriates the necessary dollars for this five year program to handle the first two years. But it goes further than that, in that, it establishes and speaks to the next biennium and a half. It indicates that the interest on the earnings of this initial appropriation shall reduce further expenditures, it suggests that if after the next biennium and after the rainy day fund has been taken care of, there is further monies in surplus that those be used. Then to carry out the legislative intent and to carry out the purposes of this act it allows for consideration to bond on an annual basis, subject like all bond issues to approval of governing council.

Now, Senator Podles, as you have indicated, your suspicion is that this is a means of driving us into a broad base tax. The one thing you must understand that yes, there are a great number of conservatives in this room and year in and year out you've heard that threat, but, you'll also recognize that Senators Blaisdell, McLane and myself have continually said, that this isn't a philosophical issue. This isn't a way in which you choose to raise revenue. That debate we're willing to have at any time in the future as we've had in the past and there are those of you that would disagree violently with us. But we have also said, let's be honest and let's be forthright and let's recognize what it is that we have before us. Yes, we're in the enviable position of finding ourselves with revenues in excess of expenditures and on a daily basis we don't have the crisis that we had two and four years ago, but on a daily basis, we have Senators that are looking to address the needs as they see them. Quite frankly, Senator St. Jean you're honest that you don't like the bill and it wouldn't matter what it was you, still wouldn't like it and you'd prefer to see us address human needs. That's all well and good, but unlike recognizing a program that sets perimeters and we know what the cost will be. If we commit our resources and expand our level of spending to recognize the plight of human beings in this State and recognize human needs

and we project that 24, 36 and 48 months out into the future, we damn well have got to have the resources and the ways and means to continue on that support. I think we have the ways and means which I've always felt we have. But the rest of you in this room and in this legislature would not concur so you have to be very careful. It is recognizing what we have available to us, it's establishing a program that is confined, it gives direction as to fulfilling our commitment and it does nothing more. This bill should be sent on and it should be sent on to the House today. The House undoubtedly, you can guarantee the House will amend this bill. People from the administration, people from the House, people from the Senate will sit down and there will be continued council and advice from the private sector of New Hampshire. This bill should be passed, this bill should be passed in the fashion that the Senate Finance Committee recommends and we should move on with this subject today. Any further attempts to affect this legislation will be counter-productive and will speak for the way you truly feel in your heart. I say pass this amendment and pass this bill. Thank you Mr. President.

Question: Committee Amendment.

Senator Charbonneau requested Roll Call.

Senator McLane seconded.

Those in favor: Senators Freese, Hough, Dupont, Disnard, Blaisdell, Pressly, McLane, Bartlett, Torr, Delahunty and Krasker.

Those opposed: Senators Bond, Hounsell, Heath, Chandler, Roberge, White, Nelson, Charbonneau, Podles, Johnson, Stephen, St. Jean and Preston.

11 Yeas

13 Nays

Amendment failed.

Senator Bartlett moved to lay SB 1-A on the table.

Adopted.

SB 121-FN-A, Relative to legal costs concerning the Maine state income tax. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: I'm very pleased to stand in front of you today with a report on SB 121. As you know, this bill went down to Finance and it had a \$50,000 appropriation in it to fund a legal challenge to the Maine State Income Tax by a group of private citizens.

As a result of what happened in Finance and as a result of the cooperation extended to the committee by the Attorney General's office, they have now decided that they will present the challenge to the courts on behalf of the citizens of the State of New Hampshire. What we have here basically, is our Attorney General and his willingness to represent a group of citizens that have been wronged and I wholeheartedly applaud his willingness to do that. The amendment provides the authorization for him to do so. I urge its passage.

SENATOR CHANDLER: This is a good bill and I think the Finance committee should be congratulated on making a change in it, so that, it won't cost us a lot of money but just the services of the office of the Attorney General. I urge everybody to vote for it.

Amendment to SB 121-FN-A

Amend the title of the bill by replacing it with the following:

An Act  
authorizing the attorney general to undertake proceedings  
on behalf of resident taxpayers of this state  
regarding certain taxes imposed by  
the state of Maine.

Amend the bill by replacing all after the enacting clause with the following:

1 Attorney General Authorization. Notwithstanding any other provision of law, the attorney general is authorized to undertake judicial proceedings on behalf of individuals or a class of residents of this state to challenge the imposition of taxes unlawfully imposed on, assessed to, or collected from these residents by the state of Maine pursuant to the provisions of the Maine personal income tax statutes as amended by public laws 1986, chapter 783 or by any subsequent amendment.

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

SB 192-FN-A, Establishing the office of state auditor. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: SB 192 was referred to the Internal Affairs committee and the bill in its original form made an effort to establish a state auditor. Internal Affairs, with the assistance of our legal council for the Senate, spent a tremendous amount of time on this

bill and also had a second hearing on the bill to allow an opportunity for anyone wishing to testify on the new version to come forward.

What it basically does, there was a number of major points and I'll only touch on the major points and then I'll answer any questions. Number one; it provides equal representation on the fiscal committee for the Senate, which is something that the Senate has been striving for since I've been here and hopefully with the passage of this bill by the House, we'll finally obtain that. Section two of the bill merely clarifies and conforms the statutes with the present organizational structure of the LBA office. One to four under section two empowers the LBA to perform the audits that we've empowered him to do. Section five deals with access by the LBA office into the integrated financial system, merely repeats existing law. Section six assigns the reports to the fiscal committee and then finally the final section establishes the audit division new function of program audit.

A couple of comments briefly about the amendment. The amendment also provides for an audit for every agency within a ten year period and also gives him the authority, with the assistance of the fiscal committee, to determine a schedule. So that is somewhat of a brief form of what this bill does. It has had an extensive amount of work and we feel it's the appropriate way to go to accomplish what the sunset function has accomplished.

Just one final word; the last section, section six repeals the sunset legislation that's on the books.

SENATOR HEATH: Senator Dupont, are you talking about a periodic ten year audit of each agency of PAU?

SENATOR DUPONT: No we're not. What we're talking about is that all agencies must be audited at least once in every ten year period. Now maybe it'll be determined that it's more appropriate on some of the agencies to audit them on a more frequent basis, but this basically defines that there has to be one within every ten years.

SENATOR HEATH: Senator, would the audit consist of anything but a financial audit?

SENATOR DUPONT: It would consist of a program audit also to determine whether or not that agency is performing not just in financial matters, but also, in program related areas that it is in fact living up to the goals and the objectives that this legislature set for that agency.

SENATOR HEATH: Could you tell me, this seems to me that this is a drastic step and I'm probably in as much agreement with you that sunset has not lived up to all of our expectations, but at least it's provided us with great resource of fairly objective information that we couldn't get otherwise and having served in this body prior to the beginning of sunset, I think I can recognize the need and the good that sunset has done although it hasn't saved us a lot of money. It seems to me that it has performed a function of educating us on the programs and of re-steering some of the programs. Can you tell me how this procedure, as a substitute for sunset, will do a better job?

SENATOR DUPONT: Senator, it will do the same type of program result audits that sunset has done and you will have the same information available to you that you had under sunset. I think what we're looking at here is in this session, I don't know what we've had, I think 30 sunset bills that have come through this body at a cost of \$800 or \$1,000 a piece supposedly to draft, to do nothing more other than reestablish the agency. I think what we're saying is program audit should to be a part of the audit function of the LBA, but we can do it without making the agency automatically go out of business or acquire a piece of legislation to come forward to keep that agency in business. More importantly, I think by this, we recognize the fact that sunset has had some value. Because if we didn't, we wouldn't have a piece of legislation in front of you to establish a program similar to sunset. I think we've taken the best out of sunset and thrown away the worst parts of sunset and what you have in front of you is a mechanism to do that.

#### AMENDMENT TO SB 192-FN-A

Amend the title of the bill by replacing it with the following:

An Act  
relative to the membership of the legislative  
fiscal committee and the legislative  
budget assistant and making an  
appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Fiscal Committee; Membership Increase. Amend RSA 14:30-a to read as follows:

14:30-a Fiscal Committee. There is hereby established a fiscal committee of the general court. Said committee shall consist of



[eight] 10 members[,]; 5 shall be members of the house appropriations committee, the chairman of which shall be one of said members and the other 4 shall be appointed by [said chairman, three] the speaker of the house of representatives, and 5 shall be members of the senate finance committee, the chairman of which shall be one of said members and the other [two] 4 shall be appointed by [said chairman] the senate president. Said committee shall while the general court is in session and during the interim consult with, assist, advise, and supervise the work of the legislative budget assistant, and may at its discretion investigate and consider any matter relative to the appropriations, expenditures, finances, revenues or any of the fiscal matters of the state. The members shall be paid the regular legislative mileage during the interim while engaged in their work as members of said committee.

2 Duties of Legislative Budget Assistant; Establishment of Audit and Budget Divisions. RSA 14:31 is repealed and reenacted to read as follows:

14:31 Office of Legislative Budget Assistant; General Duties.

I. The office of the legislative budget assistant shall consist of 2 divisions, the audit division and the budget division.

II. The legislative budget assistant shall be responsible for the proper execution by the audit division and the budget division of their respective functions, as detailed in RSA 14:31,III, RSA 14:31-a, and RSA 14:31-b.

III. Both the audit division and the budget division shall conduct such investigations, analyses, or research into the financial activities and condition or the financial management procedures, or any specific area thereof, of any department, board, institution, commission, or agency, for the information of the legislature, as the fiscal committee shall specifically direct. In making any such investigation, analysis, or research, the legislative budget assistant shall have the power to examine whatever accounts or records of, or property or things of value held by, said department, board, institution, commission, or agency the fiscal committee shall deem useful to said investigation, analysis, or research.

IV. All state departments, boards, institutions, commissions, and agencies shall be required to furnish to the legislative budget assistant any information he may request in the course of carrying out his duties as prescribed by this section, RSA 14:31-a, and RSA 14:31-b.

V. The commissioner of administrative services shall deliver to the legislative budget assistant the official financial information under the control of the commissioner as required by this section in a form

unaltered from that which is finally reported in the integrated financial system. The approval of the governor, the speaker of the house of representatives, and the senate president shall be required for delivery of any other information, other than the official financial information required by this section. The right of access to information under this section shall not arise until after each transaction or event subject to RSA 91-A has taken place. Such information shall be provided to the legislative budget assistant in a mutually agreeable and compatible format at the end of each business day. The legislative budget assistant shall be subject to the provisions of RSA 21-I:13-a, II. This paragraph shall not be construed as granting the legislative budget assistant access to any information or any information system relative to the internal functions of the office of the governor or any executive agency, department, board, commission, or institution through the integrated financial system.

VI. In addition to any other reports required by statute or by the fiscal committee to be submitted by the legislative budget assistant, he shall submit to the members of the appropriations, finance, and ways and means committees a report of the results of post-audits, program result audits, and investigations he has conducted since the date of his last such report. The fiscal committee shall determine which policy committees of both houses of the general court, in addition to those listed in this paragraph, shall receive reports pursuant to this paragraph. The report required by this paragraph shall be submitted not later than January 25 of each regular legislative session.

3 Audit Division. RSA 14:31-a is repealed and reenacted to read as follows:

14:31-a Audit Division. The audit division shall:

I. Conduct post-audits of the accounts and records of any state department, board, institution, commission, or agency. The legislative budget assistant may cooperate with federal officials and agencies in conducting said post-audits.

II. Audit the accounts of the state treasurer at least once each fiscal year. The findings and report of a certified accountant, designated by the legislative budget assistant, may be accepted as fulfilling the requirements of this subparagraph.

III. Submit a detailed report of every audit conducted pursuant to this section to the fiscal committee for its approval. After approval by the committee, a copy of the report shall be given to the governor; the speaker of the house of representatives; the president of the senate; the commissioner of the department of administrative serv-

ices; and the executive officer of the department, board, institution, commission, or agency concerned. The executive officer shall have the right to submit a written statement explaining or rebutting the findings of the report to the fiscal committee.

IV. Conduct such program result audits of any department, board, institution, commission, or agency as the fiscal committee shall specifically direct. Program result audits shall include, but not be limited to, examinations and any determinations based upon the examinations as to whether the results contemplated by the legislature, or other authorizing body, have been and are being achieved by the department, board, institution, commission, or agency concerned, and whether such objectives could be obtained more effectively through other means. This paragraph shall not apply to constitutional officers in the execution of their constitutional duties. The fiscal committee may direct the legislative budget assistant to expand the scope of any program result audit to include such policy analysis as the fiscal committee may, in its discretion, designate. Such committee shall, at least once every 10 years, consider the necessity of the review, pursuant to this paragraph, of each department, board, institution, commission, and agency.

4 New Section; Budget Division. Amend RSA 14 by inserting after section 31-a the following new section:

14:31-b Budget Division.

I. The budget division shall:

(a) Provide technical staff assistance in the areas of finance, accounting, and budgeting to the appropriations, finance, ways and means, and capital budget overview committees and such other committees, including joint committees, of the general court as the fiscal committee may from time to time designate, upon the request of any of such committees or the fiscal committee.

(b) Prepare fiscal notes and amendments to fiscal notes as required by RSA 14:44-47.

(c) Prepare fiscal impact statements as defined in RSA 541-A:1, V.

II. The legislative budget assistant shall attend all hearings on state budgets as provided for in RSA 9:7.

5 New Section; Charge Back of Audits of Special Fund Agencies. Amend RSA 14 by inserting after section 31-b the following new section:

14:31-c Charge Back of Audits of Special Fund Agencies. The cost of any audit done by the legislative budget assistant or by any other auditor under his direction or authority of any department, division,

or agency funded by highway, fish and game, any self-sustaining, or special fund shall be a charge against the appropriate fund and said cost shall be transferred from said fund to the general fund.

6 Repeal. The following are repealed:

I. RSA 17-F, relative to the legislative committee on review of agencies and programs.

II. RSA 17-G, relative to legislative review of state agencies and programs.

7 Supplemental Appropriation. In addition to any other sums appropriated to the legislative budget assistant, the sum of \$50,000 is hereby appropriated for the fiscal year ending June 30, 1988, for costs involved in complying with this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

8 Effective Date. This act shall take effect July 1, 1987.

SENATOR HEATH: I move that they divide the question. One part of the question being the question of whether the Senate has equal fiscal representation. The other part of the question being the remainder of the bill.

SENATOR PRESTON: Respectfully, I urge you to vote against the pending motion calling for the division of this bill. I think it's very important to the Senate as well as the integrity of a good piece of legislation here that essentially gives the Senate the weighted same vote as the House, which we have never heretofore had in a fiscal committee. It addresses concerns we had in sunset, it allows reviews, it protects constitutional offices, there has been a lot of work that went into this bill and I urge you not to divide that section as it addresses the fiscal committee with the rest of the bill. I think they should go in together. Thank you.

SENATOR HEATH: I've been told by the leadership of this body that, in the last few minutes they have the votes and I suspect they do. I think they think this is some sort of a challenge. It comes out of honest concerns. Sunset isn't perfect, it hasn't served all of our purposes. I was here and I fought for sunset and I hoped it would work better. Our responsibility is something we have shirked in not making it work better. But it should be a subject of a single piece of legislation and not coming in the back door disguised as something else, as it has. I think we can do a lot to improve the sunset process

and whether we call it sunset or our own audit or whatever, it doesn't matter to me. I know it can be improved but this isn't the way to do it. I would hope that you'd go along, although I doubt you will, and separate this question and let's start with a bill dealing with sunset and face it honestly. See if we can improve it and see if we can improve the process because it hasn't failed, we have failed in doing it correctly and I would like to see it succeed because I think these programs need an objective look and every time you hear a bureaucrat someplace in the bowels in the state bureaucracy screaming about people coming in and looking over their books and you know that it's working because there is someone in there that's seeing something for the first time. They're seeing it differently, they're not doing the, "gee this is the way we've always done it", approach. They're looking at it freshly and if nothing else that's a valuable addition to the institution of state government and I'd ask you to, rather than throw it all out, to address it as an issue in and of itself.

SENATOR DUPONT: First off, I don't often get up and say I take offense, but the classifications of this bill as coming in the back door does offend me. This bill had two hearings before the Senate. Senator Heath, I didn't see you at either one of them if my memory serves me right and I will applaud Senator White because I know Senator White has really spent a lot of time on this issue. She came to the hearing on Monday or Tuesday and I probably wouldn't be wrong in saying that she's not totally happy with what we have in front of you, but at least she made an honest effort to relay to the committee her concerns. I was under the assumption that that's what committees were for, to give the public and the members of the legislature an opportunity to voice their concerns about this piece of legislation. This bill has not only had an extension amount of work by the committee, but also the counsel for the Senate and the counsel for the House have worked on this bill, trying to come up with something that will be acceptable. As I said earlier, I think we recognize the need for sunset. Senator Heath also alluded to the fact that we have the votes to pass this, we also have the votes to kill sunset. I think if we were really trying to do away with the sunset function, you wouldn't have the bill in here to create this position and this function within the LBA office. This was an honest effort, not a back door effort and I think it's a good piece of legislation.

SENATOR HEATH: Could I have sorted it, come in and testified on it?



SENATOR DUPONT: Senator, it deals with setting up a function to do program audit. I can't apologize for the title and I won't apologize for the title. All I can say is that, you know you had your opportunity, you had two opportunities, and it was listed in the calendar relative to the office of state auditor. That's basically what the title is and I can't do anything about it.

SENATOR WHITE: Senator Dupont has indicated that I am displeased with this amendment, indeed I am. The original intent of the bill was to set up a separate function of a state auditor. Currently under the LBA they perform two functions. One is for a budget support and the other is for audit. Basically what the bill did was to take the audit people out and put them under the legislative facilities committee and at the same time, take the sunset staff, so we could have a performance audit, so you would have both agencies combined, both legislative staffs combined and you would have a performance audit and a financial audit being done by the same group of people who would report to the facilities committee. I will not fight the amendment that is before you today in the hopes that when it gets over into the House they will clean it up because I think it needs to have a lot of cleaning done on the bill. I don't know if it will get done, but I think it's regrettable that the two functions are not divorced. I think that the audit function should be separate from the budget function and currently it is not; or the financial audit section of the LBA is not separate at this time, because it is under the director of the LBA. The deputy director of the LBA is the head of the audit section, who is Mike Buckley, so that he serves as the head of the audit and as the deputy legislative budget assistant who then supposedly is over the budget staff. That's why I felt we should have a completely separate section dealing with audits only and that that should be reporting to, and I think all legislative committees staff should report to the facility committee. I don't feel that the fiscal committee should have the leadership of the legislative staff reporting to them. They should be reporting to the leadership of the House and the Senate. Basically the facilities committee is the leadership of the House and Senate and that's where all legislative staff should be reporting to and that was the intent of this bill to divide those two agencies so that the legislative leadership would have oversight in the audit and not have the oversight of the fiscal committee. Because the fiscal committee, when they receive the audits listens to the audits and places them on file for everyone to read them and they don't always follow up on the audits. That was my concern. That the performance audits would not be followed up on in legislation and somehow you've got to get the policy committee in-

volved in it. That's why, in the original bill, I indicated that there should be a member from the House Executive Departments and Administration and the same from the Senate, so that, you would have those people on the committee. It would be a separate committee that they would report to, so that, we would know what the performance audit was and have the financial audits that they want go to the fiscal committee. Facilities committee, I feel, should be an overall in charge of all legislative staff. That was the intent of the original bill.

Dupont moved the question.

Adopted.

Question: To divide the question.

Motion Lost.

Question: Adopt Committee Amendment.

Amendment Adopted. Ordered to Third Reading.

SB 145-FN, An act relative to study of the state classification system. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: You have in front of you the amendment on page 4 to SB 145. It appropriates \$250,000 to continue the recommendations of a task force that was set up under SB 36 to study the state classified system. The amendment that you have in front of you also provides \$50,000 to add to the study for the additional unclassified employees that weren't included in the original study of a classified system. It was a separate bill that dealt with studying the unclassified system and we felt it ought to be included in the overall study. That's basically the amendment from Senate Finance.

SENATOR MCLANE: Senator Dupont, in Senate Finance we had some discussion about the study of pay equity to go along with this very expensive study. It was suggested that pay equity would obviously be part of this study. What guarantee would I have, other than your word on the floor of the Senate in the record, that there would be pay equity as part of this study?

SENATOR DUPONT: Senator there is a task force that is made up of members of the SCA and of a number of different groups that have brought forward people to serve on the task force as well as private sector people. I would assume that probably the best thing

that you should do is contact them to verify the question. It is my understanding, based on our early conversation and on the roles of the task force, that was an area that they were going to look at. I can't give you a guarantee, but that's basically the best that I can do.

SENATOR JOHNSON: Senator Dupont, if this bill passes, is it reasonable to conclude that you would oppose any individual bills for pay increases prior to the completion of this study?

SENATOR DUPONT: Senator, it's not really a question of pay increases that we're addressing. What we're looking at is the whole classified system. I think the last number that I heard was that there was roughly 1500 different positions that exist in the state government classified system. It is the goal of the task force and this consultant to try to bring that down under the 1,000 range as well as to determine how we can better compensate those individuals that have technical skills that are greatly in demand out in the private sector to be able to encourage and retain those employees in state government and they can't do that in the existing system.

SENATOR HEATH: Senator, in your previous answer to Senator McLane's question I wonder if you'd explain to me what your understanding of the term pay equity is.

SENATOR DUPONT: Well Senator, I don't think that I really need to get into that discussion with you right now. Senate Finance looked at the whole package of what had been proposed by the task force. That is available to you if you'd like to see me after the session and we can discuss it at that point in time.

#### AMENDMENT TO SB 145-FN

Amend the title of the bill by replacing it with the following:

An Act  
relative to study of the state classification system and making  
an appropriation therefor and directing the facilities  
committee to conduct a study of salaries for  
unclassified state employees and making  
an appropriation therefor.

Amend the bill by replacing section 3 with the following:

3 Unclassified Employees Study Authorized. The legislative facilities committee shall conduct an in depth study of salaries for all unclassified state employees. The committee is authorized to engage consultants to assist in this study. All state departments and agen-

cies shall cooperate with the committee as may be required to complete this study. The members are authorized to receive legislative mileage in connection with their duties under this act. A report on the committee's findings and recommendations for legislation shall be made to the speaker of the house of representatives and the president of the senate on or before December 1, 1987.

4 Appropriation. There is appropriated to the legislative facilities committee the sum of \$50,000 for the fiscal year ending June 30, 1988, for the purposes of section 3 of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Ordered to Third Reading.

SB 219-FN-A, Relative to a state operated multiple DWI offender minimum security detention center and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: The committee recommends SB 219 as ought to pass with amendment. I guess I would address the amendment first. The amendment provides for a person guilty of second offence DWI to be sentenced to the county house of corrections for a minimum of 33 days. Sentence to begin upon a conviction or at the end of the defendants appeal for 3 consecutive days and 30 days shall be suspended, conditioned on that the defendant makes immediate arrangements for enrollment in and completes a 7 day at the state operated detention center. Failure to complete this program will be a violation of probation and there is a tracking mechanism in there. The detention center will file a report to the courts and the division of motor vehicles indicating successful completion of the program and the report shall contain recommendations for further treatment or involvement with AA. The court may order the defendant to follow the treatment of recommendations at a court approved facility or the court may discharge the defendant from the remaining term of the probation. The detention center shall submit an annual report to the Speaker of the House and to the President of the Senate on or before January 1st of each year. Driver's license is revoked for three years, the fine is \$750 to \$1,000; \$500 of that would be used for their expense at the detention center. What wasn't really discussed, which is a primary goal of the Senate Finance committee, was the amount

of money appropriated. The amount of money appropriated was \$250,000 for the first year of operation, thereafter the program would be sustained by that portion of the fine which goes to the institution to fund it. The committee recommends ought to pass as amended.

SENATOR CHANDLER: Senator Torr, I understand the amendment and I agree with the amendment, but my question is, does the state now have a multiple DWI offender minimum security detention center? Do we have such a thing now?

SENATOR TORR: Not on line at the present moment, sir.

SENATOR CHANDLER: Is the appropriation in the bill to provide for such a service?

SENATOR TORR: There's a notation in the bill indicating that there will be an expenditure of \$350,000 occurring at the Laconia State School, in the Spaulding Building specifically. In the capital budget bill that's coming across, originally there was \$350,000 in it. That has been taken out by the House because there was no one there to testify as to the need of it. Being chairman of the Capital Budget committee, I will assure you of the fact that that \$350,000 would be put back in there for the renovations of the Spaulding Building at the Laconia State School.

SENATOR NELSON: Senator Torr, I was just interested, does this bill in any way weaken the drunken driving statutes?

SENATOR TORR: In my opinion Senator Nelson, it does not weaken it. In fact, it enforces it and makes it stronger because you might have heard when I spoke, it makes the person serve three consecutive days in confinement or incarceration in a county facility. In addition to seven days so, you're getting a total of seven days. Presently on the books, the person is sentenced to seven days incarceration, much to the surprise of many law enforcement people and safety personnel, that term is being served on weekends, two days at a time. Therefore it loses its impact. This way unfortunately it has a strong economic impact on the person. In addition, we're trying to cure the problem and that is drinking excessively.

SENATOR NELSON: Will the changing of this law in any way impact the money that we receive from the federal government for any of these programs if it's perceived as a weakening of the law?



SENATOR TORR: It was the indication from the director of safety services if we eliminate it, any jail term, it would impact us and the potential loss would be \$400,000. I would have to note to you this bill is a compromise. Originally it was intended to be just the rehabilitation program of seven days. The compromise is the fact that we retain seven days incarceration, but in fact it's three consecutive days.

SENATOR NELSON: Just a point of clarification, if I may; did you in fact say, yes, that it will impact the federal funds?

SENATOR TORR: Not to my knowledge. The fact is that there is a prison term there and to the best of my knowledge as to the testimony given to us, it won't impact us.

SENATOR STEPHEN: Senator Torr, doesn't this bill in fact repeal the seven day jail sentence to three days in jail?

SENATOR TORR: Yes it does.

SENATOR PRESSLY: Senator Torr, I have a series of questions. Could you tell me what the capacity at the Spaulding Building is at Laconia, what do they perceive the capacity of people that they can accommodate there?

SENATOR TORR: I believe 42 beds.

SENATOR PRESSLY: When will it be available?

SENATOR TORR: I guess the availability would depend on the legislative body and the executive body and whatever action they might take on the capital budget.

SENATOR PRESSLY: I assume as I read this, it will be a state operated multiple DWI offender, minimum security detention. Now a house of corrections is also a minimum security, so I am assuming, and please correct me, is it fair to assume that the Spaulding House is going to in effect be turned into a facility of incarceration capable of meeting the minimum security standards according to the federal regulations for minimum security?

SENATOR TORR: I don't think I'd equate it to quite that degree. I believe if you compare it to a county facility where you have bars on the windows and what not, I don't believe that's the intent of this legislation. The intent of this legislation is to cure an illness, or disease which ever category you wish to place it in, but they are under supervision on a 24 hour period, for the seven days that they would be spending there.

SENATOR PRESSLY: Could you explain then the reason for including minimum security in there, if you do not intend to have them actually detained in a mode of incarceration.

SENATOR TORR: Minimum security, in my interruption, is the fact that they are under constant supervision and therefore that is minimum security.

SENATOR DUPONT: Senator Torr, isn't the real truth of the matter that law enforcement really supports the rehabilitation effort in this bill, but they'd really like to see the seven day mandatory sentence left in?

SENATOR TORR: There was testimony indicating that they wanted to see the seven days left in. Privately, I've talked to many of those individuals and they don't feel that there is any magic number, seven days, three days. I think what the incarceration is attempting to prove is the fact, I know anyone in this room doesn't want to face the fact that they would be incarcerated and I think that's what the message is to the person who is a social DWI. I don't think it's a deterrent to that person who has the disease. I think that's why this bill has come along. It goes that step further to cure the problem and eliminates that potential of creating a catastrophe on our highways. It also goes a step further to be a beneficial aspect to the social aspect, the family and in the work place if, in fact, you can cure an individual with this disease.

SENATOR DUPONT: Realistically, if you gave somebody their choice between spending three days in a cold, damp jail or seven days, wouldn't they take the three days. Isn't it possible that seven days is a deterrent that has a little bit more effect in it, than just a three day slap on the wrist type of sentence. Really, I think what they were saying that day at the hearing, was that this really is a crime and by just treating it and not punishing it that you're really taking it out of the area of being an offense against society, which it can be. They feel the seven days has served a useful effect?

SENATOR TORR: I don't agree totally with that statement, Senator Dupont. The fact is, as a member of Strafford County, you are well aware that we have a very modern facility. It's not cold, dark, damp; it's well lit and heated. I don't think their life is that miserable per se when they go to Strafford County. But, if in fact, they do go to someplace like the Valley Street jail, which Strafford County used to be like, I believe that is a wrong punishment but they only serve it on weekends in many instances.

SENATOR JOHNSON: Senator Torr, I think I know, but tell me please, in regards to incarceration, what is the law now on this issue? What was it in your original bill and what is it in the amendment?

SENATOR TORR: The law on the books right at present is seven days incarceration. It's suppose to be served consecutively. There is a loop hole in the law apparently, which allows the judges to let the person serve on weekends and apparently in many, many instances throughout the state that's occurring and I must remind you that what's presently on the books is seven days minimum. What this bill is indicating is seven days minimum. What I first proposed and was amended by a policy committee by unanimous vote I believe, was an alternative, seven days prison and/or the choice of seven days in a rehabilitation center, a state operated rehabilitation center.

SENATOR JOHNSON: So, do I understand your answer that, under current law a multiple offender is subject to seven days in jail regardless of whether it's consecutive or whatever, seven days in jail. The original bill calls for a choice of seven days in jail or seven days in the rehab program and that this bill now calls for 33 days incarceration provided that 30 days would be suspended upon satisfactory completion of the seven day rehab program. Is that correct?

SENATOR TORR: Yes, I'd like to correct my first statement. The original proposal and I've had so many numbers flying around that I apologize to you for stating that incorrectly, they had the alternative of 30 consecutive days in prison or seven days at a rehab center.

SENATOR PRESSLY: Senator Torr, I am a strong believer in strong DWI laws and of course I think all of us hope that the goal of any program that we put in place, is to prevent further occurrences and to diminish the incidences of injury and killings caused by people who drive automobiles and are intoxicated. I think I would like to support your bill however, I would like some assurance. Was there any testimony before your committee or is there any evidence that supports the combination that you're presenting, which I see a combination of a choice of a lengthy incarceration or a combination of a small period of incarceration combined with a rehabilitation program. Did your committee receive any evidence that that combination diminishes the likely hood of an individual repeating the offense that they are charged with?

SENATOR TORR: The evidence was that, there is a high percentage of a recidivism rate occurring as a result of those persons con-

victed of second offense DWI. The fact of the matter though, there was a graph presented to us showing there being less second offense DWI's occurring and testimony by the Chief of the Laconia Police Department indicated that we also should factor in the fact that the State of New Hampshire is a rapid growing state and the population is up there. I would have to leave it to you as to why the second offense DWI has dropped.

SENATOR PRESSLY: Did I understand your response that with the current laws on the books the incidents of repeat offenders has diminished under the current system?

SENATOR TORR: The second offense DWI by the graph presented, and I don't know what the substantiation of that graph is, showed the diminishing of the second offense DWI.

SENATOR PRESSLY: I'm wondering if I'm hearing you correctly; there was evidence that this combination that you are proposing to deal with second defenders of DWI, diminishes the incidents of recurrence?

SENATOR TORR: In my opinion, that's the way the evidence would have been assumed by myself, that it would diminish it.

SENATOR STEPHEN: Senator Torr, isn't it true by the repeal of the seven day jail sentence, that we are going easy on DWI offenders?

SENATOR TORR: In my opinion, no that is not true, in fact, they would be serving a total of ten days versus seven days. In fact they would serve three consecutive days in prison and seven consecutive days in a rehab center. If in fact they didn't complete that rehabilitation program, they could serve up to a total of 33 days incarceration.

SENATOR STEPHEN: I agree with the incarceration, with the treatment and all, but nevertheless, if this Senate is going to come down strong on DWI offenders, why can't we stick with the seven day jail sentence rather than the three day?

SENATOR TORR: In my opinion, we're coming down much harder than we have in the past by this legislation.

SENATOR JOHNSON: Under the amendment before us, isn't it true that a multiple offender, with as many as three or four or more DWI convictions, would still only be subject to the three days in jail?

SENATOR TORR: Not true Senator Johnson. If in fact a person is a multiple offender, third time or further, he automatically receives a 30 days incarceration. In addition to 28 days of rehabilitation at his expense.

SENATOR JOHNSON: Where does it say that a third time convicted offender goes to jail as you have just indicated, Senator Torr?

SENATOR TORR: I believe that's in your main bill Senator Johnson. Page 2, II a., it indicates that at the bottom of the page. Thirty consecutive days, 24 hour period and the person shall complete, at his own expense, a 28 day treatment program within three months of sentencing.

SENATOR MCLANE: I think that Senate Finance has done a good job on this bill and the greatest moment was when Police Chief Cheeny, who is the head of the Chief of Police Association, came out in favor of this bill. I think we've made it harder on someone convicted in a second DWI. In the old days and as the present law reads, the person chooses which weekend they want to go and obviously they tell all their friends they're going to Boston and they go off to jail. They do not go to jail immediately upon conviction as this law of Senator Torr's asks. The only disagreement that Police Chief Cheeny seemed to have with Geraldine Sylvester, who is strongly for this bill as written, was what percentage of second offense DWI people are true alcoholics. Geraldine Sylvester said that they were 80% and I asked Police Chief Cheeny and he said no, he thought it was 90. I think you've got to realize that the present system isn't working, that this is a new plan and a good plan and that, in reality it takes ten days out of a persons life and it's going to be a rough program they're in. I think it is going to be minimum security, in that, they will not be able to watch TV, they will not be able to leave the premises, they are going to have study groups and all the things that help an alcoholic, a real tough medical program. In the end of it, if they don't stick with the program they go right back into the jail to start a 30 day sentence because they haven't followed through with the program and they will go on to AA. It's the only way we're going to break this cycle and I think it's important for this state to try.

SENATOR BLAISDELL: Senator McLane, do you remember the dialogue that went on between Mr. Patch and the Department of Safety?

SENATOR MCLANE: Yes.



SENATOR BLAISDELL: About these people who were sentenced to seven days in jail and were doing it at their own leisure. They were dropping through the cracks and some were not serving the full seven days. Do you remember that dialogue?

SENATOR MCLANE: Yes, I think this was a real problem we discovered, is that many people are getting away with something now.

SENATOR BLAISDELL: Do you remember also, that we put in the bill that it will have a tracking system for these people, so we would know that they have served the terms that the courts have put on them?

SENATOR MCLANE: Right.

SENATOR TORR: Senator McLane, isn't it true in testimony from some member of safety, that there is no mechanism in place to determine to the fact that that person convicted of a second offense DWI has completed a jail term or rehabilitation?

SENATOR MCLANE: Exactly, and I think that one of the things that this bill is going to do is really follow up on these people.

SENATOR DELAHUNTY: As I understand it, the larger percentage of DWI driving convictions are down, which seems to indicate that the awareness is there and at present the larger percentage of convictions indicates to me anyways, that the second offenders are to be considered as some sort of alcoholics, which requires a treatment. I think that these people should be treated and treated as a sickness and they need care and understanding as opposed to being treated as criminals. A conviction of a seven day incarceration would tend to be demeaning and may add insult to injury and I believe it's a sickness that has to be treated and I would urge your support of the bill as amended.

SENATOR KRASKER: Public Institutions, Health and Human Services was the policy committee that heard this bill and you're probably aware because it went through the Senate. Our recommendation to you was for the treatment alone and not the jail sentence. I would say that the three days is probably a reasonable compromise and in response to Senator Pressly's question, the suggestion that was given to us for inclusion of a jail sentence, in addition to the seven days, was only for three days. Nobody recommended to us a jail sentence longer than three days.

SENATOR WHITE: I apologize for keeping you here any longer. As Senator Krasker said, we did have a full hearing, we did work on it, we feel that this is more of a deterrent than the current way things are being handled in regards to second DWI. With the amendment, I feel even more secure that the DWI people will indeed be taken care of. Our concern in our committee was that many of the judges, and I hope this hasn't been covered, would not give the jail terms to the second offenses, instead they would work them down back to the first offense. That was our concern, was that the people were not being jailed, they were plea bargaining and they were going back down to the first offense. Recently, if you recall in the newspapers, was an individual that had seven DWI offenses and never had served any time and that was the gentlemen from out-of-state that murdered an innocent girl on our highway. Those are the types of people we have to get to and perhaps if we have this language in the bill the judges will sentence them on the second offense, their true second offense, not their tenth offense or eleventh offense, they will actually be going in on their second offense and I think that was the important part of the bill. I think we all believe in tough DWI bills, but what good is a tough DWI bill if the judges don't sentence them on their second offense. I think that was our problem and hopefully, with the new amendment it has strengthened it even more and you will vote for it. We did discuss it when it came on the floor the first time, but now it's even better.

SENATOR BLAISDELL: Senator Torr, there's a real feeling in this room that they don't understand about the ten days and the seven days. Would you please explain exactly what was told to us in Finance, so that, the Senators can know what it is. And would the Senators come into the room and listen, maybe that would be a right thing to do for a change Mr. President! Get the Senate in here.

SENATOR TORR: Upon conviction of a second offense DWI and upon the end of the appeal process, the person is committed to three consecutive days incarceration. Upon his earliest arrangement to get into second defense DWI offender detention center, he would serve seven consecutive days, making a total of 30. If, in fact, he defaults or she defaults on that seven day detention term, they are in violation of probation therefore, they would complete the original sentence of the total of 33 days incarceration. The detention center is minimum security, it's a concentrated program, there is no leisure time other than the fact of, like in the military, you get up in the morning and you do your morning routine and then it's business until lunchtime, you do your normal procedure at lunchtime and it's

back to business after lunch, your day is regimented totally. There's no recreation period or anything of that nature that occurs and they are detained to the building, period. So it's ten days total detention.

#### AMENDMENT TO SB 219-FN-A

Amend the bill by replacing section 1 with the following:

1 Multiple DWI Offender Program. RSA 265:82-b, I(b) is repealed and reenacted to read as follows:

(b)(1) Upon conviction based upon a complaint which alleged that the person has had one or more convictions in this state or another state and were within the 7 years preceding the date of the second or subsequent offense, said person shall be guilty of a misdemeanor and shall be sentenced to the county house of corrections for a minimum of 33 days; said sentence to begin immediately upon conviction or at the end of the defendant's appeals period. Three days of the sentence shall be served on 3 consecutive 24 hour periods and 30 days of said sentence shall be suspended on the condition that defendant makes immediate arrangements for enrollment in and immediately completes 7 days at the state operated multiple DWI offender minimum security detention center program at the Laconia state school.

(2) The defendant shall be fined not less than \$750 and not more than \$1,000 and shall also be placed on probation for one year. He shall pay \$500 of the fine assessed on him by the court through the probation department for the costs of the state operated multiple DWI offender minimum security detention center program, and shall pay the remainder of the fine assessed to the clerk of court. Failure to complete the program shall be a violation of the terms of probation and of the defendant's good behavior which shall result in a violation of probation being filed with the court. The multiple DWI offender minimum security detention center shall be administered and operated by the office of alcohol and drug abuse prevention pursuant to the provisions of RSA 172-B:2-b. The state operated multiple DWI offender minimum security detention center program shall furnish to the courts and to the division of motor vehicles, department of safety, a report indicating when the defendant has successfully completed the program. Included in that report shall be any recommendations for further treatment or involvement in Alcoholics Anonymous when appropriate and warranted. The courts, upon receipt of such report, may order the defendant to follow the treatment recommendations at a court-approved treatment facility or the court may discharge the defendant from the remaining term of his

probation. The state operated multiple DWI offender minimum security detention center program shall also submit an annual report on or before January 1 of each year to the speaker of the house of representatives and the president of the senate.

(3) Further, if the defendant is a resident of the state, his driver's license or driving privilege or, if he is a nonresident, his privilege as an out-of-state driver to drive on any ways of this state shall be revoked; and he shall be ineligible to hold a license or to drive upon any way in this state for the next 3 calendar years. The driving privilege or driver's license of a person who has had 2 or more prior convictions within the 7 year period shall be revoked indefinitely, and he shall be ineligible to hold a license or to drive on the ways of this state for at least the next 3 calendar years.

Senator Blaisdell moved the question.

Adopted.

Question: Adopt Committee Amendment.

Amendment Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator McLane in the chair.

SB 20-A, Relative to the Franklin-Laconia bypass connector and making an appropriation therefor. Inexpedient to Legislate. Senator Torr for the Committee.

SENATOR TORR: The committee recommends inexpedient to legislate and this was at the suggestion of one of the sponsors. There is a House bill, which is a sister bill to this bill, that is coming across to us and we will address the issue of the Laconia-Franklin bypass at that time.

Adopted.

SB 212-FN-A, Increasing financial aid to certain municipalities for water treatment projects; making an appropriation for the Winnepesaukee River Basin treatment facility; and permitting state participation in a Clean Water Act state revolving loan fund. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: SB 212 provides for increasing the financial aid to certain communities for water treatment projects. The eleven

communities named are under mandate to be in compliance with the Clean Water Act of 1977 by July 1, 1988. Noncompliance of that act will subject the communities to court action if they are unable to formulate a consent decree with the EPA. The consent decree is an agreement between the community and the EPA whereby a schedule is established to come in compliance with the Clean Water Act subjecting the community to substantial fines if they fail to meet that proposed schedule as a result of their actions. A litigation project is also part of that consent decree, whereby a community does a designated sewer project in lieu of a fine for not being in compliance with the Clean Water Act by July 1, 1988. The amendment is found on page 18 of Senate Calendar 25. It changes the words original costs to eligible costs. It also adds in II, line 3 after each said, shall provide funds to pay for all interest costs incurred by issuance of bond participation notes and upon completion of said project. In another line near the very bottom of the page it indicates completed, that word would be eliminated. We changed the listing of the communities effected to an alphabetic order therefore neutralizing it and diminishing the concerns of those communities listed. The appropriation is for one dollar; in the fact that we wanted to keep it alive and send it across today, but in fact, we will address it in the operating budget. Sections 2, 3 and 4 are eliminated from the bill, section 3 is addressed in SB 10-A. The financial aspect of this is that there are eleven communities within the State of New Hampshire that are being effected by this. In essence what it is, is a short fall of federal funding. Presently the federal government funds sewer projects on a 75% basis. There is, as a result of congressional action, a reduction of that funding back to 55% and the Governor, in his campaign, indicated the commitment to fulfill that short fall. The total cost of construction for these eleven communities is estimated to be \$101 million. The estimated federal funds available would be \$63 million. The original estimated cost to the communities which is at 5% is \$5 million. The estimated state cost at 20%, originally, would be \$20 million. What we're attempting to cover in this legislation is the additional short fall of \$12 million. I would recommend that you go along with the committee of ought to pass as amended.

#### AMENDMENT TO SB 212-FN-A

Amend the title of the bill by replacing it with the following:



## An Act

increasing financial aid to certain municipalities  
for water treatment projects and making  
an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Funding for Certain Sewage Disposal Facilities. Amend RSA 149-B:1 to read as follows:

149-B:1 State Contributions.

I. The state of New Hampshire shall, in addition to any federal grant made available under the provisions of the Clean Water Act of 1977 (or subsequent amendments thereof), pay annually 20 percent of the annual amortization charges, meaning principal and interest, on the original costs resulting from the acquisition and construction of sewage disposal facilities by municipalities (meaning counties, cities, towns, or village districts), in accordance with RSA 148:25, RSA 149:4, IX, and RSA 149:4, XIII, for the control of water pollution. The word "construction" shall include engineering services, in addition to the construction of new sewage treatment plants, pumping stations, intercepting sewers, and sewer separation by storm drains when the latter can be demonstrated as a cost-effective method for eliminating a combined sewer overflow structure; the altering, improving or adding to existing treatment plants, pumping stations, intercepting sewers, and sewer separation by storm drains when the latter can be demonstrated as a cost-effective method for eliminating a combined sewer overflow structure; provided the construction has been directed by the division of water supply and pollution control, or constitutes a voluntary undertaking designed to control or reduce pollution in the surface waters of the state as defined in RSA 149:1, and the plan therefor is approved in compliance with the provisions of RSA 148:25, RSA 149:4, IX, and RSA 149:4, XIII. The term ["original costs"] "eligible costs" as used in this section shall mean the entire cost of the construction of treatment plants, pumping stations, intercepting sewers and sewer separation by storm drains as defined in the Clean Water Act of 1977.

II. Notwithstanding the provisions of paragraph I, the state of New Hampshire shall make a grant to the respective communities for the following specific projects which are enumerated in this paragraph, in an amount that, subsequent to the application of all available federal funds and the 5 percent local share of each said project,

shall provide funds to pay for all interest costs incurred by issuance of bond anticipation notes and upon completion of said project, shall provide funds which are equivalent to the annual amortization charges, meaning principal and interest, on the remaining portion of the eligible costs resulting from the acquisition and construction of said sewage disposal facilities:

- (a) Berlin;
- (b) Dover (secondary treatment facility, pump station, and force main);
- (c) Goffstown contracts 1C and 3A;
- (d) Littleton secondary treatment facility;
- (e) Manchester (west interceptor north II, Piscataquog River interceptor, northeast interceptor, west interceptor south);
- (f) Nashua secondary treatment facility;
- (g) Newport secondary treatment facility;
- (h) Plymouth secondary treatment facility;
- (i) Portsmouth expansion of primary treatment facility;
- (j) Walpole village interceptor sewers;
- (k) Winchester Ashuelot village interceptor.

2 Appropriation. There is appropriated the sum of \$1 for the fiscal year ending June 30, 1988, for the purposes of this act. The governor shall draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted.

Senator Preston offered a floor amendment.

SENATOR PRESTON: I fully concur with what was said by Senator Torr regarding the problems confronting the list that he had provided on SB 212. However, there were three communities that moved on to an enforcement list on that bill that would have placed them into a revolving fund. The amendment that I have just submitted to you adds those three towns and cities; Manchester, Exeter and Monroe. Briefly, the town of Exeter has operated a lagoon waste water treatment system since '64 and they are now noticing that they will be in the same category court wise of \$25,000 a day fines by 1988. For reasons not entirely clear, Exeter, Manchester and Monroe are not included in the original listing of towns which would be unable to meet these deadlines by 1988, compliance deadlines set forth in the Clean Water Act. It was however, included with Manchester

and Monroe in the initial listing in connection with SB 212, which downgraded in terms of funding the Manchester Treatment Plan Expansion, as well as Exeter and Monroe treatment projects, instead of all being included for full 95% participation. These three projects were dropped to eligibility for loans only from a revolving fund yet to be created.

The financial impact, as a consequence of this downgrading, will be severe to the city of Manchester, Exeter and Monroe. As an example, the Exeter project is estimated at a cost in the vicinity of \$4 million and of this amount the town will be required to fund all except for the 20% state aid, which means instead of receiving 3.8 million, Exeter will obtain only \$800,000, a loss of \$3 million to that small town which they can ill afford. Exeter, Monroe and Manchester and others similarly situated, are sure to be ultimately exposed to the heavy penalties, the gun to the head that's now faced by the cities on this list. For example, civil penalties of up to \$25,000 a day can be imposed on the city or town in violation of the federal compliance date. The cost implications are staggering and it's essential that it be included for full funding along with the other eleven communities as outlined by Senator Torr in SB 212. In the case of Manchester, as soon as that intercept of the sewer program provided for in 212 is completed, it will be faced with the necessity to go forward with the \$15 million treatment plant expansion, that's expected of them by Water Supply and Pollution EPA. This is the phase now being relegated, to a revolving loan fund approach. Now just think of it, if the city of Manchester remains in the category of a loan candidate Manchester will suffer the loss of eleven million dollars capital costs. In the Monroe situation, this small town would lose one million dollars in special assistance, if it is not included in SB 212-FN. Also, of course, if these three communities do not complete their abatement programs there is every reason to expect federal enforcement and prospect just like the other communities. In fairness to all, all three should be under the umbrella of the 95% assistance of which SB 212 provides. Now we spoke before about bonding big monies for the land trust program, these are the kind of things that are my priorities for clean water and sewage and sanitations for citizens of this state and I urge you adopt this amendment.

SENATOR STEPHEN: Senator Preston, does this grant Manchester the full amount of monies that it has asked for? Are we talking \$31 million?

SENATOR PRESTON: No, Manchester is already in there for the first portion, this is the secondary water treatment. It's a total of \$15

million, \$11 million of which would be a loan out of the revolving fund by the city that they would lose. If we don't put these in that original bill that we just voted on, it could cost Manchester \$11 million more than they are planning.

SENATOR STEPHEN: So, this would guarantee Manchester the \$11 million?

SENATOR PRESTON: It would put them in a level with these other cities where they would get the \$11 million.

SENATOR NELSON: Senator Preston, do you know the dates of the Manchester, Monroe and the other Manchester project? What is the dates of the project?

SENATOR PRESTON: I can't speak to the dates, but I could find out for you.

SENATOR NELSON: Ok. Do you think Senator Preston, by adding these three programs then that anyone in this State will be guaranteed the money or in fact, it could jeopardize any of the money or change the total distribution of the money?

SENATOR PRESTON: No, we were told that they are very well aware where the critical areas are. This just allows and appropriates the necessary money for the people who are going to be facing the same enforcement programs. We were told very specifically, at least I was in private, that Manchester, Exeter and Monroe were arbitrarily cut out of this listing and this will not interfere in any way. The most critical area in the State is Nashua discharging sewage treated only with chlorine going directly into the Merrimack River. That's the first funding of anything regardless of what we do.

SENATOR NELSON: How many Manchester projects are there? Is this all the projects or just some of them sir?

SENATOR PRESTON: I think one project has been addressed and two were originally. This is the other big project that they are under the gun on. I'm sure they have other plans.

SENATOR NELSON: Senator Preston, are you adding another project for Manchester to this legislation?

SENATOR PRESTON: I am not. Manchester, Exeter and Monroe, in that order, were arbitrarily left off a list of those towns and cities under the gun. I'm just putting them back in.

SENATOR NELSON: Isn't it true Senator Preston, that these three cities were not included in the original list, are in a different place in the process and are not under the same federal gun, if you will, for completion?

SENATOR PRESTON: Exactly, and they are noticed already. As I said when I spoke, by July of 1988 they will still be under the same director and under the gun that Dover is in, Nashua is in and if we don't address it now they are going to be in the same predicament in 1988.

SENATOR WHITE: We looked at the bill at great lengths and we had five executive sessions on the bill to be sure that we could come out with the way we felt it should be done.

Regrettably, I rise against the amendment that Senator Preston has put before you because it could jeopardize the whole bill. Manchester might end up losing all their money, Nashua, Portsmouth, the rest of the cities would lose the money. In answer to Senator Nelson's question, those were on the proposed list for 1990; Manchester, Exeter and Monroe. Strangely enough, Swanzey and Gunstock weren't included in this amendment that were also on the 1990 list, but these are trying to be bumped up. I think what you have to realize is what the initial bill does. What it does is, it fully funds the lapse that we're getting in the federal funds. Federal funds are going out of this program and the State is making up that 75% of federal money. There are eleven lucky communities. If you don't represent any of those eleven lucky communities, your communities are out of it and they are going to have to pay a full 95% of any future sewer projects. So, let's not call them the dirty eleven or the dirty dozen, whatever it is, because they are the lucky eleven or the lucky twelve because they are the ones that are going to get fully funded. Any town that comes in that is not in the original 212 bill will have to go through this revolving fund because the federal government is saying that we are not going to guarantee that money anymore, we're only going to guarantee X dollars this year and X dollars next year but those are going into the revolving fund, which will have to be paid back. So, if you start adding towns here with these three and it goes over into the House and they all take their pet projects and they start adding them to the bill you're, going to have a Christmas tree out there and you're not going to have anything that's going to pass.

SENATOR ST. JEAN: Could you explain to me Senator why, if we add these three communities, there will be some problems with this



passage? You alluded to it becoming a Christmas tree. Is your fear the amount of monies that will be spent on something like this?

SENATOR WHITE: Every additional project that is put into this bill will come directly out of the general fund. The original bill calls for \$13 million over and above what we're going to be getting from the federal. Every additional dollar is going to come straight from the general fund.

SENATOR ST. JEAN: Would you believe Senator that you argued earlier on the floor that we had \$20 to \$25 million that you were willing to spend on the land trust and now you're telling me that you're concerned about spending money when it comes to sewer projects?

SENATOR WHITE: I'm not saying that Senator, I'm saying if you want to do sewer projects do them all. Don't put the bill in at all and let everyone come under, don't just let twelve communities do it, let every community in the State of New Hampshire come under this. I'm not saying lets limit it. I'm saying that if you're going to do it, you either stick with the ones that are under the gun and go with those and next year come again with some more that actually we have direction from the department that they are under the gun. But the policy committee determined that we would stick to the original list that was presented to us. Unfortunately, some of the communities that have been doing it on their own without having the gun to their head, are going to lose money and all the cities are going to get the money.

SENATOR PRESTON: Senator White, you referred to something as the lucky drawer or something and I just want to clarify it for the record, that if Manchester is unlucky enough not to be included, I don't know if you said the lucky eleven, isn't it true that they will have to borrow \$11 million instead of receiving the \$11 million as the 80% share?

SENATOR WHITE: Well, so will all the other towns that in all the lists, Jaffrey and whatever other ones will have to pay.

SENATOR PRESTON: Is it true that it will cost Manchester \$11 million for the secondary water treatment that was on that list?

SENATOR WHITE: It'll cost Manchester, it'll cost every single town, but it will cost them more if we make this a Christmas tree and the bill gets vetoed.

SENATOR BLAISDELL: Senator White may I just inquire? You mentioned Swanzey and of course Swanzey's in my district along with some others that are on this list here. I received a call last night, very late, of the sewer people that were meeting in Swanzey and they wanted me to amend this bill to put \$2 million into it because they are in deep trouble?

SENATOR WHITE: That's right Senator. That's what I'm telling you.

SENATOR BLAISDELL: Was there any concern in your committee when you wrote this about Swanzey and Jaffrey, was there any concern whatsoever?

SENATOR WHITE: Basically they limited it to those that are under a court order. That's the problem that I have with Senator Preston's amendment. They are not under a court order. But North Swanzey and Jaffrey and all of our little towns are going to lose money because they are not one of the lucky ones that got in this bill that are going to be covered 95%.

SENATOR PODLES: Senator White would you believe that communities do pay 5% of the construction costs?

SENATOR WHITE: I said 5%, but now they are going to have to pay 100%.

SENATOR PODLES: Oh, I didn't hear that.

SENATOR WHITE: I said they will pick up the additional 95%.

SENATOR PODLES: But they will now be paying 5%, they have to add to this 5% of the construction cost to the original bill. The dirty eleven, or whatever you want to call them, they have to contribute 5% of the construction costs.

SENATOR WHITE: Yes. The way it has been in the past, the community pays 5%, the State pays 20% and the Federal Government pays 75%. What the bill does is say, since the federal government is no longer going to be paying 75%, the State, in its magnificent approach, will pick up that 75% so the communities will only have to pay 5%; for these lucky people. The rest of the communities will pay 100%.

SENATOR JOHNSON: Senator White, could you isolate for me just what the new State general fund obligation is going to be, under the bill in front of us now, including the Preston amendment?

SENATOR WHITE: I don't know the cost; I would say that the cost of the Preston amendment is roughly \$15 million. The original bill was approximately \$13 million, so he's adding another \$15 million.

SENATOR JOHNSON: What then is the total State obligation that we're taking on under the bills before us?

SENATOR WHITE: \$28 million.

SENATOR JOHNSON: Then is that the difference between the former 75% federal funding and I heard someone say, now 55%?

SENATOR WHITE: No, the federal percent goes to zero. So it's the difference between 20% and 95%; it's picking up that 75% federal funding.

SENATOR JOHNSON: That money then would go, if I'm understanding what you're saying, to those communities now being described as "under the federal gun". Isn't it a strange set of circumstances then, that it's an advantage to be under the gun?

SENATOR WHITE: Absolutely.

SENATOR PRESSLY: Senator White, in listening to the debate I get the feeling that the committee had to make a difficult choice and you had to somehow figure out a way that was logical, reasonable and fair to determine who would be included in this grouping and who would not. And I think I'm hearing you say, and I ask you to clarify it, that you did determine that the fairest way to do it was to determine those who were under a specific mandate versus those that had not been sited for the mandate as yet?

SENATOR WHITE: If you call it fair, that's how it was determined. It's a definite yes. They have a mandate to have it done or a court order is coming down. We felt this would be the last shot of the State government and so to take care of all those that are currently under a court order and limit it to those communities.

SENATOR PRESSLY: Then is it fair to say that you did figure out some formula, that based on a list that someone else had provided for you, as far as determining?

SENATOR WHITE: Yes.

SENATOR BLAISDELL: Senator White, say federal funding doesn't come through on this. Then who is responsible?

SENATOR WHITE: The State.

SENATOR DISNARD: Would you believe that it's my understanding and the administration, that is the federal money does not come through according to this bill 212, the State will guarantee the federal loss?

SENATOR WHITE: That's what 212 does, it guarantees that loss of federal fund for these communities.

SENATOR TORR: I'd like to address some of the issues that have been raised and I'm not sure of, in fact, that I've been able to keep track of all of them. Dealing with the amendment per se, Exeter in particular. I have talked to the Attorney General's office and also to the Environmental Services, Assistant Commissioner George Mollineaux. They received a notice that they were not in compliance five years ago, there is no threat of enforcement at this point in time. That's not to say in the future there may not be. Therefore they do not need to be on the list. I have to stress the fact that the eleven communities on the list are subjected to enforcement and enforcement will either be through court action unless a consent degree is agreed to.

Relative to Manchester, there are four projects within that list of eleven. West intercepting North 2, the Piscataqua River interceptor, Northeast interceptor, West interceptor South; the one that's been added, the Manchester secondary treatment facility is projected into the future. This is not to say, and I guess before I get into that aspect of it, the addition of Monroe is also projected into the future. None of these communities in those spaces that are addressed in the amendment are under enforcement compliance at this point in time. That does not include the fact that if they in fact do become under enforcement in the future that the legislature body and the executive body cannot take action to include them. But if in fact, they are included now with this list of eleven, they will jeopardize those eleven communities as far as funding is concerned.

There is another piece of legislation which was attached to this, which we decided to divide out of it because as Senator White indicated, we had a minimum of 5 executive sessions if not longer and they were extensive debates as to how to be fair to all persons concerned and all communities within the State of New Hampshire. That will address those communities that are not in the eleven by establishing a revolving fund. That first grant is for \$12 million plus,

just shy of \$13 million, the State still guarantees their share of 20%. Future legislative action could address further short falls from federal funding or they could, in fact, address the total 95% depending on what action they see in the future. But I would hate to see this bill jeopardized today and I could assure you in fact if we make it a Christmas tree there's an automatic veto. Thank you.

SENATOR ST. JEAN: I stand in support of the Preston amendment. The project that we're talking about here today is a good portion of my district. What's currently going on in my district is raw sewage is being dumped into the river. I've alluded to this before. We wanted to spend \$20 million earlier today for something called the land trust yet here we are debating, by Senator White's own admission, there are other projects that need to be funded and I think what happens here is it's always a question of priorities. What are we going to do? I kind of think before we start to buy land around this State we ought to clean up the Merrimack River because not to long down the road communities like Londonderry, Auburn and Chester are going to be drinking that water. If we can't fund these projects I don't know how in God's good world we're going to ever spend \$20 million to buy land. I think this is a good example of priorities. This, incidently, wasn't called Senate Bill 1; it's down the list, but I think we have to get our priorities straight in this chamber. I think clearly this project needs to be funded as do other worth while projects in this State.

SENATOR BLAISDELL: Senator St. Jean, you've alluded to the land trust many times in your speech. Would you like to amend that to also include the rainy day fund that you're setting aside?

SENATOR ST. JEAN: No sir.

Question: Preston Amendment

Senator Preston requested Roll Call.

Senator Stephen seconded.

Those in favor: Senators Hounsell, Freese, Disnard, Podles, Stephen, St. Jean and Preston.

Those opposed: Senators Bond, Heath, Hough, Dupont, Chandler, Roberge, Blaisdell, White, Pressly, Nelson, Charbonneau, Johnson, Torr, Delahunty and Krasker.



Motion Fails.

Ordered to Third Reading

SB 10-A, Authorizing the construction of the Franklin-Laconia bypass and bridge over the Pemigewasset River and making an appropriation therefor. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: You will find the amendment on page 13 and it really takes everything out of the original bill including the title. What it does is it takes a part of SB 212 that we just worked on and that's the revolving fund and puts it in a separate piece of legislation, so that, you can vote on that as a separate and distinct bill. We felt that there are bills coming over from the House dealing with the Franklin-Laconia bypass and we thought the revolving fund, since it was a brand new concept, should be acted on separately. So we divided the question so that you would have that opportunity to vote on both aspects of the bill. You will see the three towns that Senator Preston had in his amendment there. What we have done from the original bill is, to change the committee structure to include members of the legislature in addition to members of the executive branch. There is an appropriation of 2.4 million dollars in there, which is the state matching for the 12 million that the federal government has said that they will be sending down to us. So that's the state match, to match the 12 million from the federal government.

#### AMENDMENT TO SB 10-A

Amend the title of the bill by replacing it with the following:

An Act  
permitting state participation in a Clean Water Act  
State Revolving Loan Fund.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; State Revolving Loan Fund; Clean Water Act. Amend RSA 149-B by inserting after section 11 the following new section:

149-B:12 State Revolving Loan Fund. Authority is hereby granted for the state of New Hampshire to participate in the federally funded State Revolving Loan Fund as may be provided under the Clean Water Act as amended from time to time. The loan fund shall be administered by a committee composed of the governor or his designee, the commissioner of environmental services or his designee, one member of the executive council to be named by the governor; the chairman of the senate capital budget committee or his designee, the chairman of the house public works committee or his designee, one member of the house of representatives appointed by the speaker of the house, and one member of the senate appointed by the president of the senate. It is the intent of the general court that the following projects, in descending order, shall have original priority status:

- I. Manchester STP EXP;
- II. Exeter STP; and
- III. Monroe STP.

2 Appropriation. The sum of \$2,400,000 is hereby appropriated for the biennium ending June 30, 1989, for the State Revolving Loan Fund described in section 1 of this act for the purpose of providing a 20 percent state matching grant for the federal funds deposited in said fund during fiscal year 1989. The governor is authorized to draw his warrant out of any sums in the treasury not otherwise appropriated. This appropriation shall be nonlapsing and in addition to any other sums appropriated to the State Revolving Loan Fund.

3 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Ordered to Third Reading.

SB 150-FN-A, Relative to safety improvements to the Spaulding Turnpike and making an appropriation therefor. Interim Study. Senator Torr for the Committee.

SENATOR TORR: The committee recommends interim study on SB 150-FN-A. On that day I had a particularly good day and it was the general agreement of the committee that this bill should be sent to interim study.

What it would have done, was appropriate \$400,000 for safety improvements on the Spaulding Turnpike, exits 6, 7, 8 and 9 and that would have been overhead lighting.

Adopted.

SB 75-A, Authorizing the study of the feasibility of reconstructing U.S. Route 1 from Massachusetts line to Portsmouth, New Hampshire, to increase capacity and safety, and making an appropriation therefor. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: SB 75 appropriates the sum of \$150,000 to the Department of Transportation for a feasibility study and development of plans, for the reconstruction of US Route 1 from Massachusetts state line to Portsmouth, New Hampshire. The study will take into account the anticipated growth along that roadway and make recommendations as to how the existing road system can be approved to adequately address the growth.

The amendment reduces the original appropriation from \$500,000 to \$150,000, which was the sum that Senator Preston and I originally were requested. It was increased in the belief that what we were looking for was an engineering study, it was not and this is satisfactory to us. I would hope that you would approve it.

#### Amendment to SB 75-A

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation. The sum of \$150,000 is hereby appropriated for the biennium ending June 30, 1989, to the Department of Transportation for a feasibility study and the development of plans for the reconstruction of U.S. Route 1 from the Massachusetts state line to Portsmouth, New Hampshire. The study shall take into account the anticipated growth along the corridor and make recommendations as to how the existing road system can be improved to adequately address the growth. The department is authorized to retain the services of consultants as required. The department is further authorized to accept federal and private funds that may be available for these projects and this appropriation shall be reduced by the amount of such funds. This appropriation shall be nonlapsing and is in addition to any other appropriations to the Department of Transportation for the biennium. This appropriation shall be a charge against the highway fund.

2 Study Submitted to General Court. The Commissioner of the Department of Transportation shall submit the findings and recommendations made as a result of the study conducted pursuant to section 1 of this act to the President of the Senate and Speaker of the House of Representatives on or before December 1, 1988.

3 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

SB 112-A, Making an appropriation to the department of safety for certain capital improvements. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: You will find the amendment on page 14 and basically what the amendment does is it says, if the amount of money is in either the fast track capital budget or the regular budget that comes over from the House, then this is null and void. Basically what it does is it takes two projects that are on going that we funded in the last legislature and gives sufficient money to complete the projects.

SENATOR DUPONT: Senator, the wording on this is skillful, to say the least, because it probably should be labeled, you can't lose legislation because basically what it does is, it takes the highest of any sum appropriated and gives it back. Is there a reason for that?

SENATOR WHITE: Isn't that unique!! Senator, I had just as soon have it go through without an amendment, but the committee decided that they wanted that amendment in there. I wanted it to go through as a clean bill and let it rise or fall on its own. That just says, if the money comes over in another bill it dies.

SENATOR DUPONT: I'd just like to know who drafted it because I have some legislation I'd like them to take care of for me!

SENATOR WHITE: Dick Duclos did it.

#### AMENDMENT TO SB 112-A

Amend the bill by replacing section 5 with the following:

##### 5 Contingency Provision.

I. Sections 1, 3 and 4 of this act shall not take effect if either HB 100-A or HB 200-A of the 1987 regular session of the general court becomes law and contains the same projects and the amounts appropriated are equal to or greater than the amounts as specified in section 1 of this act.

II. If HB 100-A or HB 200-A becomes law and contains appropriations for either or both of the projects specified in section 1 of this act, and the appropriations made in HB 100-A or HB 200-A are less

than the total amount appropriated in section 1, an amount shall be appropriated to the department of safety for the biennium ending June 30, 1989, to increase the appropriations for the projects specified in section 1 so that the total appropriations shall equal the amounts specified in section 1 of this act. The amount of bonds authorized in section 3 of this act shall be reduced to equal the amount appropriated by this section.

6 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Ordered to Third Reading.

SB 151-A, Relative to traffic improvements at the intersection of New Hampshire Routes 9 and 155 and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: This bill appropriates \$750,000 to create a four-way intersection of Routes 9 and 155 in the city of Dover. This intersection is a by-product of the Spaulding Turnpike, constructed in the early 1950's. The problem has grown worse over the years and, at this point, is where a major safety problem exists. Not only from the fact that this is a trunk line to the Dover industrial area, but also is adjacent to the local high school. The project will be bonded and funded from the highway funds.

The amendment authorizes reduction of the appropriation and bonds by any federal turnpike or private funds. That amendment was put on because of the fact we have development going on in the area. The city of Dover as a result of the planning department, any development that takes place that impacts this intersection that developer will contribute funds to it. We have a development that's going to have 600 units of condominium housing occurring in the area. That developer has pledged \$350,000 to this intersection and the section of road in front of his project that will be affected as a result of the project. There is in the very near future an industrial complex going in, they will be assessed an impact fee and that money will go towards the reduction of the \$750,000 by their contribution.

#### AMENDMENT TO SB 151-A

Amend section 1 of the bill by replacing it with the following:

1 Appropriation. The sum of \$750,000 is hereby appropriated to the department of transportation for the biennium ending June 30,



1989, for land acquisition, engineering, design and planning for the reconstruction and the construction of a 4-way intersection at New Hampshire routes 9 and 155 in the city of Dover. This appropriation shall be nonlapsing and in addition to any other appropriation for the department of transportation for the biennium. This appropriation and the bonds authorized shall be reduced by any available federal, turnpike, or private funds.

Amendment Adopted. Ordered to Third Reading.

SB 187-FN-A, Relative to the Weeks traffic circle. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: 187 appropriates \$6 million for improvements and land acquisitions related to the access roads into and away from Weeks traffic circle and creating a four-way intersection. The plans and engineering are 90% complete, funded by the city of Dover and the State of New Hampshire to the tune of \$250,000.

The amendment deals primarily with funding sources and a start-up date of the project prior to December 31, 1991. The funding sources are \$1 million from the turnpike fund. I guess I'd like to indicate at this point in time, whatever takes place within this project as far as funding sources, will not affect any other part of the State other than the immediate area. In HB 509 there was \$18 million, I believe, appropriated for safety improvements on the Spaulding Turnpike adjacent to this area. If in fact the million dollars is not available from routine sources, they would extract a million from that appropriation.

Federal Aid Urban Systems is an appropriation of 2.5 million dollars. As it is at present, the city of Dover has in reserve federal aid urban systems money 1.8 million dollars. The city of Somersworth has .4 million dollars available for funding of this project. The city of Dover accumulates 150,000 dollars a year, therefor this portion is covered.

The Federal Aid Primary Fund, which deals with the amendment, indicates discretionary intersection funds or other funds available. At the discretion of the Department of Transportation there is available each year one million dollars to use on intersections. The Department of Transportation indicated that they would be willing to use that money towards this portion of that funding.

The city of Somersworth will be contributing \$250,000 and the city of Dover one million dollars. Those last two funding sources are pri-

marily for land acquisition. The amendment further states that this would be a non-lapsing fund. All testimony was affirmative. I would urge your adoption.

SENATOR BOND: Is it agreeable to the municipalities of Somersworth and Dover that they contribute these funds or are we mandating that they contribute them?

SENATOR TORR: The city council of Dover, which I'm a member of, agrees that they would make that part of their capital improvement project. The Mayor of Somersworth testified before the committee that they are agreeable to it. There was much discussion within the city of Somersworth Council, but they thought it was a good buy. I would like to go back to the point of the engineering, that cost \$250,000. \$200,000 was the State portion, \$50,000 was the city of Dovers.

#### AMENDMENT TO SB 187-FN-A

Amend the bill by replacing all after the enacting clause with the following:

##### 1 Appropriation.

I. The sum of \$6,000,000 is appropriated to the department of transportation for the biennium ending June 30, 1989, for improvements related to the access roads into and away from the Weeks traffic circle in the city of Dover. The source of funds for such appropriation shall be as follows:

- (a) Turnpike fund - \$1,000,000.
- (b) Federal Aid - Urban Systems - \$2,500,000.
- (c) Federal Aid - Primary Fund, discretionary intersection funds or other available funds - \$1,250,000.
- (d) City of Somersworth - \$250,000.
- (e) City of Dover - \$1,000,000.

II. The appropriations made by this section shall be continuing appropriations and shall not lapse.

2 Turnpike System; Improvement Authority. Amend RSA 237:2, II to read as follows:

II. Acquire land and make improvements to that portion of the eastern New Hampshire turnpike known as the Spaulding turnpike and extend said turnpike with 2 lanes including the completion of existing interchange number 9, the Dover-Somersworth interchange including the access roads into and away from the Weeks traffic cir-

cle in the city of Dover, and the extension of the turnpike to the 1965 Milton-Wakefield project, the expansion of the Dover toll facility, safety and widening improvements along the turnpike, purchases of access in critical sections, and the extension of the system to include a bypass around Conway.

3 Turnpike System Funds. Amend RSA 237:7, I(d) to read as follows:

- |  |             |
|--|-------------|
| (d) Construction of Dover - Somersworth  | [1,700,000] |
| interchange number 9 of Spaulding turnpike,  | 2,700,000   |
| including the access roads into and away from the Weeks traffic circle in the city of Dover. |             |

RSA [273] 237:2, II.

4 Turnpike System; Borrowing Power. Amend RSA 237:8 to read as follows:

237:8 Borrowing Power. For the purpose of providing funds necessary for the appropriations made by RSA 237:7 the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding [\$158,600,000] \$159,600,000 and for the purpose may issue bonds and notes in the name and on behalf of the state in accordance with the provisions of RSA 6-A; provided that the bonds may mature up to 30 years from their dates of issue and may be made redeemable before maturity at the option of the governor and council at such price or prices and under such terms and conditions as may be fixed by the governor and council prior to the issue of the bonds. The interest on bond anticipation notes may be funded by the issue of bonds to the extent of the applicable bond authorization and, to the extent not so funded, may be paid from any source from which interest on the anticipated bonds could be paid, including any of the turnpike reserve accounts identified in RSA 237:15.

5 Bid Deadline. All bids by contractors to perform work to be paid out of funds appropriated under section 1 shall be submitted to the commissioner, department of transportation on or before December 31, 1991.

6 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

SB 128-A. Authorizing the construction of a Keene bypass extension and making an appropriation therefor. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: This is an extremely important bill. It has to do with authorizing the construction of the Keene by-pass extension and making an appropriation therefor. The original bill appropriated the sum of 11 million dollars to the Department of Transportation for the construction of a by-pass of approximately 2 miles that they've been working on for over 25 years in the Keene area. There was excellent testimony provided by municipal officials, representatives and members of the business community up there, to alleviate a very busy traffic problem in the area.

The amendment as seen for 128-A was cut back to appropriate the sum of \$7,500,000 to address land acquisition, engineering and design, only. The construction funds, actually, are not included at this time. I urge your passage of this.

The corrected amendment is in the supplemental calendar and it appropriates the sum of a meager \$500,000. I was confused, Madam President. My original motion was for \$7,500,000 in committee, but it's corrected in the supplemental budget and the amendment as voted on by the committee and recommended out as ought to pass is \$500,000.

SENATOR JOHNSON: Senator Preston, do you have any explanation as to why this so called important project was not included in the Governor's ten year highway plan, which this legislature passed just last year?

SENATOR PRESTON: I'm just amazed by the whole situation. In fact I was mesmerized when a letter was read from the Governor's Counsel, Bernard Streeter, who I thought was the Chairman of that ten year highway plan, who said I support this project as a high priority and it wasn't included. It must have been an oversight on the part of Counselor Streeter. I don't understand it, but he did send his plea, a written document, to support this.

SENATOR TORR: Isn't it true Senator Preston, that this project was in the five year plan and has been on an ongoing basis and that they have purchased land back as far as 26 years ago for the project?

SENATOR PRESTON: That's correct and it's a very frustrating thing for those folks in Keene who have been on this for over a quarter of a century.

#### AMENDMENT TO SB 128-A

Amend the bill by replacing section 1 with the following:

1 Appropriation. The sum of \$500,000 is hereby appropriated for the biennium ending June 30, 1989, to the department of transportation for the costs of land acquisition, engineering, and environmental studies, of a Keene bypass extension from the intersection of New Hampshire route 9, the Keene bypass, southeasterly to New Hampshire route 10. A grade separation shall be provided at the intersection of New Hampshire route 9, the Keene bypass, with this extension. The department is authorized to retain consultants as needed. The department is further authorized to accept federal and private funds that may be available for these projects, and this appropriation shall be reduced by the amount of such funds. This appropriation shall be nonlapsing and is in addition to any other appropriation to the department of transportation for the biennium.

Amend the bill by replacing section 2 with the following:

2 Bonds. To provide funds for the appropriation in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provision of RSA 6-A, provided that the bonds shall have a maturity date of 20 years.

Amendment Adopted. Ordered to Third Reading.

HB 526-FN, Establishing a department of safety. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: Just to refresh the memory of the members of this body. Last year at the very last minute the committee of conference on the Department of Safety Bill was unable to come to an agreement even though this body had passed this bill and as a result of it, dying in committee of conference, the Department of Safety asked that it be brought back in again this session.

What you have in front of you is the bill with the disagreement between the Senate and the House worked out. It went to the Executive Departments committee where it had an unanimous vote of the committee to bring it onto the floor today. It basically makes some changes within the structure of the Department of Safety that the department is in agreement with and feels that it is an important bill for them.

SENATOR NELSON: I notice on the analysis that it says the Commissioner of the Department, the Assistant Commissioner and the



Division Director shall be appointed by the Governor. Is that a major change? Were they always appointed by the Governor?

SENATOR DUPONT: I believe that is correct. At the present time that is the existing structure.

SENATOR NELSON: That they are appointed by the Governor, so this is not new?

SENATOR DUPONT: No, it is not new. I believe the only change in the management structure that we make in the bill that deals in that particular area is the length of term. That brings it in compliance with 21-G which is the statute that was set up to insure continuity of leadership within the departments.

SENATOR NELSON: Senator Dupont, what was the original term?

SENATOR DUPONT: The original term for the Commissioner was five years.

SENATOR NELSON: Senator Dupont, would you kindly tell me how many years the assistant commissioners were there before, and the directors. Do you know their terms?

SENATOR DUPONT: The internal structure was that everybody with the exception of one individual was already on a term basis. There is one individual in here that moves from classified to unclassified to follow in compliance with the rest of the department and he's taken care of in the bill.

Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Chandler in the chair:

SB 6-FN-A, To provide 3 additional field staff and additional equipment to the Division of Air Resources for statewide air quality monitoring and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: This bill, as amended, authorizes the Director of the Division of Air Resources to employ two additional personnel and to purchase additional air monitoring equipment necessary to accomplish his air quality monitoring enforcement duties. The bill

appropriates \$91,000 for the fiscal year of 1988 and \$51,000 for fiscal year 1989, for salaries, equipment and additional expenses. The amended version was agreed upon by the Senate sponsor, Senator Disnard.

### AMENDMENT TO SB 6-FN-A

Amend the title of the bill by replacing it with the following:

#### An Act

to provide 2 additional field staff and additional equipment  
to the division of air resources for statewide  
air quality monitoring and making an  
appropriation therefor.

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. The director of the division of air resources, in order to exercise the powers and duties granted under RSA 125-C:6, is hereby granted authority to employ 2 additional personnel to perform the following functions:

(a) monitor statewide air quality;

(b) assist the director in assessing preconstruction estimates of air quality effects of potential air pollution emission sources required under RSA 125-C:11, IV; and

(c) provide continuous monitoring of air pollution sources suspected of violating permit emissions limitations or standards, contributing to significant deterioration of air quality standards, or failure to attain or maintain any ambient air quality standard.

Amend section 2 of the bill by replacing it with the following:

2 Appropriation. In addition to any other sums appropriated to the division of air resources, the following sums are hereby appropriated to the following classes for the fiscal years ending June 30, 1988 and June 30, 1989.

	Fiscal 1988	Fiscal 1989
10 Personnel Services	\$34,710	\$36,192
20 Current Expenses	666	666
30 Equipment	42,513	0
40 Indirect Cost Rate	5,754	6,050
60 Benefits	7,290	7,962

70 In-State Travel	1,000	1,000
Total	\$ 91,933	\$51,870

The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

Amendment Adopted. Ordered to Third Reading.

SB 74-A, Relative to the port authority and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: SB 74-A originally would have appropriated \$600,000 for engineering studies for the port authority for additional berthing space. The amendment deletes that \$600,000 and directs the Department of Transportation to proceed with the second phase of engineering study relative to providing additional berthing space through the State Pier Expansion. A balance of \$162,500 remains from a 1983 authorization. The two key elements remaining to be accomplished by this appropriation are the subsurface exploration and environment assessment. The committee recommends Ought to Pass as amended.

#### AMENDMENT TO SB 74-A

Amend the title of the bill by replacing it with the following:

An Act

relative to the port authority.

Amend the bill by replacing all after the enacting clause with the following:

1 Department of Transportation; Port Authority; Phase 2 of Containment Study. The department of transportation shall proceed forthwith with the completion of phase 2 of the engineering study relative to providing additional berthing space through state pier expansion which involves construction of a containment site in Portsmouth.

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

SB 40-FN-A, Relative to catastrophic aid, and making an appropriation therefor. Ought to Pass with Amendment. Senator Disnard for the Committee.

SENATOR DISNARD: On behalf of the Finance Committee I request that SB 40 be passed as amended. The amendment is on page 13. All it indicates is \$5 million down to one dollar. So the five million is now one dollar. The purpose of the bill, as amended for one dollar, is to allow for a floor amendment pertaining to cost containment, to be presented. It's my understanding that the Finance Committee will very soon be addressing an amount of money to be included in the operating budget in terms of money for operating catastrophic aid. It could be any amount of money.

SENATOR BLAISDELL: In order to clarify exactly what the Senate Finance committee did, not knowing yet what the revenues are, we have not had a meeting in Senate Finance to determine what revenue structure or what total we're going to be looking at. It was the consensus of the Senate Finance committee that we would put one dollar in this catastrophic aid bill and address it in the budget when we knew what the revenues were. We've been accused sometimes today of being a little bit irresponsible and spending a lot of money and the Senate Finance committee is not even addressing these. You'll notice some others coming down. Until we can know exactly what revenue structure we're going to be looking at, how much. The decision will be made in the Senate Finance committee and brought back to you on the Senate floor. I would hope that you would address the bill as it is now, pass it with the amendment of the Senate Finance committee and then we'll address the amendment of Senator Disnard.

SENATOR JOHNSON: Senator Blaisdell, I'm just trying to understand your last comment there. Given your last comment about not knowing what the revenues are, on the basis of that, we should not be willing to come up with more than one dollar. If we follow that rationale, why would we be voting any new monies on any of these bills?

SENATOR BLAISDELL: You notice in some of the bills that most of them have a dollar in them Senator and if you want to look at AFDC and our other areas. We have made some decisions on some bills with a dollar in them, because they are the bigger dollar, let's put it that way - the bigger dollars.

SENATOR JOHNSON: However, your rationale though, is that we don't know what the revenues are, therefore we can't put any more than a dollar on this. If we followed that rationale there's probably a half dozen or more bills that should not be passed then. Isn't that true?

SENATOR BLAISDELL: Not exactly pass them. That's why we put the dollar in them. You're talking about AFDC, catastrophic aid and other areas; that's right, Senator.

SENATOR JOHNSON: Are you aware of what the House Appropriation budget has included for catastrophic aids?

SENATOR BLAISDELL: Three million each year Senator.

SENATOR JOHNSON: Actually it's, for the information, for fiscal year 88 it's 6.6 and for fiscal year 89 it's 6.8. That's the House Appropriation's recommendation, so would you believe then on the basis of knowing that that's in that budget now, I'd be willing to support this bill.

SENATOR BLAISDELL: Thank you.

#### AMENDMENT TO SB 40-FN-A

Amend the bill by replacing section 1 with the following:

1 Appropriation. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 1988, and a like sum for the fiscal year ending June 30, 1989, to the state board of education for the purpose of assisting school districts in meeting catastrophic costs pursuant to RSA 186-C:18 in their special education programs. These sums are in addition to any other sums appropriated for this purpose. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment Adopted.

Senator Disnard moved a floor amendment.

SENATOR DISNARD: You have before you a floor amendment. It was not printed in the calendar because it was a last minute effort. I wanted to be fair and honest and hope that you will understand.

There was a charge by this body to bring forth some type of a cost containment. We made several efforts to get together with individuals within the executive branch, but because of people being out of town it was almost impossible. We found out today that if we do not have an amendment approved by this body, referring to cost containment, there is a chance if it is tabled that the House has the option to accept it or not if nothing is done today, if it's tabled and acted on at



the next session. So, therefore I have a concern. I have a concern because of the deadline. In this amendment, which I will hope I could explain, it's a two-tiered approach; number one, there is a rate setting. Under the rate setting there would be a group of three people. One from the Department of Education which would probably be Special Education, one from Administration and Finance and one from DYS. They would set rates. This is not being accomplished right now, and that is a concern.

The other concern is cost. Some of the catastrophic costs over \$20,000. There is no means where the Commissioner of Education has the authority to review all these cases, work with local school districts to bring back some of these expensive cases and also have the area classes and try to help the smaller communities get together to have group situations. This is another cost containment and it would mean that the Commissioner of Education would have the final appeal. We found this out at 11:15 this morning and we had the bill drafted hurriedly. In fairness to the Senators, it does need some refinement, especially the last item, number 8 on page 3. I hope you will understand that we are trying to address the concerns of this body. This was developed by the Commissioner of Education and in discussion with people in the executive branch. On Tuesday, Senator Dupont, the Commissioner of Education and myself will be discussing this with the Governor. It seems he will have approval on this or lean towards it; it is my understanding. What I'm trying to say is, we're under a deadline for a cost containment. We have the mechanism and it can be refined in the House. What I'm concerned about is this, we heard Senator Johnson indicate the House Appropriation is recommending 6.6 for 1988 and 6.8 for 1989. This body may appropriate or recommend a different amount of money and then in the committee of conference it is very possible an amount of money could be appropriated for next year in the budget, sent to the Governor, but no cost containment feature. This body wants a cost containment feature; that was their instructions. I'm trying to say that it was drafted at the last minute, based on a letter of three weeks ago from the Commissioner of Education to the Governor. We think it has some good sections to it. It is addressing the problem. It will be passed along to the House if you so approve and therefore you can act on it in the committee of conference or we can work with those people.

SENATOR BLAISDELL: Would you be too much put out if I ask you to re-refer this SB 40 back to the Senate Finance Committee because there are two or three things in here, like the Department

of Administrative Services, I don't understand why they are in here. Give us a chance to take a look at it, have you come down and speak to it so we can refine the amendment. I'd appreciate it Senator.

SENATOR DISNARD: I have no problem with that if the parliamentary procedure allows it. We'd have to check with the Senate Clerk. It is my understanding that if nothing is passed today and we pass it on to a committee and act on it later, that the House would not have to accept the amendment of the bill. If this is so, then I think we have a problem. If not, I'd gladly send it down to your committee because I'm one of those who do not believe making an amendment in haste is a good idea.

SENATOR BLAISDELL: I think the rules do state that after today, if it's a money bill with even a dollar in it, that yes they'd have the right to refer it to the next session. But I don't believe that they'd take a catastrophic aid bill that they've already appropriated close to \$13 million and do away with it until the next session. I think they would give us the opportunity to take a look at it and work with it and get it back up here on the 9th of April. I'd appreciate that courtesy.

SENATOR DISNARD: I'd refer it to the Senate as they have more experience than I. If you people feel comfortable that this should be referred back to committee and we have an opportunity to send it to the House, I have no objection. I'm just concerned that there is a strong possibility monies could be appropriated, but no cost containment feature. That's my concern.

SENATOR JOHNSON: When the catastrophic aid bill came up in the Senate a couple of weeks ago, isn't it true that we had a fairly extensive discussion in regards to cost containment?

SENATOR DISNARD: Yes.

SENATOR JOHNSON: Isn't it also true that there was some assurance by certain members of this body that if this bill went down to Senate Finance that the issue of cost containment would be addressed?

SENATOR DISNARD: Yes.

SENATOR JOHNSON: Isn't it further true that during the debate or discussion on the bill several weeks ago that I advocated that the bill be re-referred to the Senate Education committee for the purpose of addressing the cost containment?

SENATOR DISNARD: Yes.

SENATOR JOHNSON: Why then, are we faced with this last minute effort at this moment?

SENATOR DISNARD: Because we were under a time problem. For three weeks I've been trying to get together with people in the executive branch and with the Commissioner of Education so that we could refine it and bring it back to the House Education Committee. I did give every member of the House Education Committee a copy of the letter from the Commissioner of Education to Governor Sununu that addressed everything that is in here. This is copied from the last paragraph on that first page and the last paragraph on the second. That's what this is.

SENATOR KRASKER: In all due respect to Senator Disnard, I will vote against this amendment today. This is an amendment to a bill I sponsored which was to provide more money for catastrophic aid. I thought it was a very simple funding measure. This may be a very good amendment or it may be a very bad amendment. I don't know. I have no idea what the implications are of this amendment or how it affects the school districts in this State who have had no opportunity to participate at a public hearing, to my knowledge, to have any input into the drafting of this amendment. I think this is a very important issue. Cost containment is probably something we should address in a very responsible manner. But I don't think, and again in all due respect, that a hastily drafted amendment is the way to go about it and I will continue to vote against any amendment that has not received input from local districts. This one or any other!

SENATOR NELSON: I would just ask you Senator Disnard, why you chose the Department of Administrative Services? What was the rationale behind that?

SENATOR DISNARD: Why the Department of Administrative Services is being recommended by someone else in addition to Senator Disnard is to have someone there with some financial background. Right now it is my understanding there is authorization, human services and the Department of Education, to work on rate setting. This is being accomplished and there is no one on that committee with a background in finance. I don't think it's realistic to try and set rates with the private providers without having someone on their team with an accounting or financial background.

SENATOR NELSON: Senator Disnard, do you think that if we recommit this bill to Senate Finance they could address that question with a little more time?

SENATOR DISNARD: Senator Nelson, I have no problem with recommitment, because I also agree that if you do something in haste you make many mistakes, I agree with that. I was just told that parliamentary procedure is a very serious problem that if we do not have something to pass onto the House after today they can refuse to accept.

Senator Blaisdell moved to recommit SB 40 to Senate Finance Committee.

SENATOR HOUGH: I support the motion to recommit and I just wanted to let you all know that I don't think there's an issue that the Finance committee spent more time with than catastrophic aid. We had people from all over the State, school boards, families, and they spent the whole day and we've been working with this. We've been working very close with Senator Disnard, but one thing you should understand, the Governor suggested a level of appropriation in his budget message was, for all intent and purposes, level funding of catastrophic aid. The House's amendment to the budget, being printed, is doubling that amount and you're ending up with a figure in and around 6 plus million per year of the biennium. What you have to understand is that we have been convinced that the administration is inclined to support a greater level of funding in catastrophic aid, if there is a mechanism for accountability. And this is what Senator Dupont said a month ago when we passed the Education committee's report and sent it to Finance. At the time we doubted whether any mechanism could be developed. But Senator Disnard has committed virtually all of his time, since that point in time, working with the various individuals and departments to effect this. I'm supporting this to be recommitted. That's what I'm addressing my remarks to. Unfortunately Senator Disnard, this is not it. Believe me that the rules are not an important item here today. Members of the House and members of the Senate and members of the Administration will support a higher level of funding if this bill, which otherwise would have been killed and you know that, is worked on further. Without this mechanism, the budget, relative to catastrophic aid, is in jeopardy and you know that.

SENATOR KRAKSER: I would like to know if it is the intention of the chair of Senate Finance to hold a public hearing on this proposal.

SENATOR BLAISDELL: Yes, I will Senator Krasker and I just told Debbie to set it up right now and do it as soon as possible. We would be very glad to hold a public hearing.

Question: Recommit.

Adopted.

SB 125-FN, To appropriate funds for ocean disposal of Rye Harbor dredge material. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: SB 125 is recommended ought to pass. We amended it to only include one dollar, as a result of the fact that there is a court injunction on that project at the present time. Therefore we would like to get it across to the House so we retained the one dollar appropriation to take further action when that gets to the House.

#### AMENDMENT TO SB 125-FN

Amend the bill by replacing section 1 with the following:

1 Appropriation; Rye Harbor Dredge Material; Ocean Disposal. The sum of \$1 for the fiscal year ending June 30, 1987, is appropriated to the department of resources and economic development for the purpose of ocean disposal of material dredged from Rye Harbor. This appropriation is in addition to any other funds appropriated to the department of resources and economic development. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment Adopted. Ordered to Third Reading.

Senator Pressly excused for the rest of the day.

SB 175-FN, Providing a cost of living increase for New Hampshire retirement system members. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: This is the bill that uses the special account of the retirement fund to fund the cost of living increase for the retired members of the New Hampshire Retirement System. What the committee amendment does is it picks up twelve individuals who are teachers that retired prior to 1955, I think that is the date, or 1957.



Senator Blaisdell and I had over the last number of years always had a Senate bill that took care of these individuals. Ms. Hart, whom you're all familiar with, always used to make sure that we had this bill introduced. Either Senator Blaisdell is in error or I am in error, but one of the other thought that the other was doing it and the bill never got introduced so therefore the committee is picking up these teachers and that's what the amendment does.

Now, I want to be honest with you. You should adopt this amendment and pass the bill. I have a floor amendment that is going to fund the benefits for those twelve very elderly teachers, and each year there are fewer and fewer of them, with a general fund appropriation as we have done repeatedly over the last many years. Right now, as this bill is structured, their benefit for those twelve also comes out of this special account and I think there has been a very strong tradition in this Senate and in this legislature to take care of these very few and very elderly former teachers with a direct annual appropriation and that's what my floor amendment will address. But before I offer that, I request that you support the committee amendment and pass this bill.

#### AMENDMENT TO SB 175-FN

Amend the title of the bill by replacing it with the following:

An Act

providing a cost of living increase for New Hampshire  
retirement system and teachers  
retirement system members.

Amend the bill by replacing all after section 1 with the following:

2 Cost of Living Increase. Amend RSA 192:30, II to read as follows:

II. The beneficiary shall have his monthly allowance increased in the same proportion which the Consumer Price Index, issued by the United States Department of Labor, Bureau of Labor Statistics for the month of November. [1984] 1986 bears to the corresponding index for the year in which the member retired; except that in the case of service beneficiaries, such increased retirement allowance shall be at least [\$180] \$200 for each year of creditable service at retirement not exceeding 30 years, and in the case of disability beneficiaries, such increased retirement allowance shall be at least [\$162] \$180 for each year of creditable service at retirement not exceeding 30 years.

3 Cost of Living Increase. Amend RSA 192:30, II-a(b) to read as follows:

(b) [\$180] \$200 for each year of creditable service at retirement in excess of 30 years but not to exceed 36 years for service beneficiaries, and [\$162] \$180 for each year of creditable service at retirement in excess of 30 years but not to exceed 36 years for disability beneficiaries.

4 Amount of Additional Allowance. Amend RSA 192:30, III to read as follows:

III. Any additional allowance shall not be less than 6 1/4 percent greater than the additional allowance paid in [1984] 1986.

5 Funding of Additional Allowance.

I. The total actuarial cost of providing the additional allowances as provided in section 1 of this act shall be funded from the special account created by RSA 100-A:16, II(h) on a terminal basis and shall be paid each year for the life of the beneficiary.

II. Notwithstanding any provision of RSA 100-A:16, II(h) or RSA 192 to the contrary, the total actuarial cost of providing the additional allowances provided in sections 2, 3, and 4 of this act shall be terminally funded from the special account created by RSA 100-A:16, II(h).

6. Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted.

Senator Hough offered a floor amendment.

SENATOR HOUGH: Let's pass the floor amendment and maintain the tradition of the Senate in honoring these elderly teachers.

#### Floor AMENDMENT TO SB 175-FN

Amend the title of the bill by replacing it with the following:

An Act

providing a cost of living increase for New Hampshire  
retirement system and teachers'  
retirement system members.

Amend the bill by replacing all after section 1 with the following:

2 Cost of Living Increase. Amend RSA 192:30, II to read as follows:

II. The beneficiary shall have his monthly allowance increased in the same proportion which the Consumer Price Index, issued by the United States Department of Labor, Bureau of Labor Statistics for the month of November, [1984] 1986 bears to the corresponding index for the year in which the member retired; except that in the case of service beneficiaries, such increased retirement allowance shall be at least [\$180] \$200 for each year of creditable service at retirement not exceeding 30 years, and in the case of disability beneficiaries, such increased retirement allowance shall be at least [\$162] \$180 for each year of creditable service at retirement not exceeding 30 years.

3 Cost of Living Increase. Amend RSA 192:30, II-a(b) to read as follows:

(b) [\$180] \$200 for each year of creditable service at retirement in excess of 30 years but not to exceed 36 years for service beneficiaries, and [\$162] \$180 for each year of creditable service at retirement in excess of 30 years but not to exceed 36 years for disability beneficiaries.

4 Amount of Additional Allowance. Amend RSA 192:30, III to read as follows:

III. Any additional allowance shall not be less than 6 1/4 percent greater than the additional allowance paid in [1984] 1986.

5 Funding of Additional Allowance.

I. The total actuarial cost of providing the additional allowances as provided in section 1 of this act shall be funded from the special account created by RSA 100-A:16, II(h) on a terminal basis and shall be paid each year for the life of the beneficiary.

II. There is hereby appropriated for the purposes of sections 2, 3, and 4 of this act for the fiscal year ending June 30, 1988, \$14,572 from the general fund and \$27,062 from political subdivisions. The governor is authorized to draw his warrant for said sums out of the appropriate funds.

6 Effective Date. This act shall take effect July 1, 1987.

Floor Amendment Adopted. Ordered to Third Reading.

SB 201-FN-A Relative to boat speeds on public waters and making an appropriation therefor. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill was passed down to Finance eighteen to four. We met with Mr. Dennis and discussed the funding of his department and there are three bills connected with boats, boat speeds and boat fines. There are two coming over from the House and so we decided to put a dollar in it and send it over to the House. I have been impressed with the popular support for this bill. The main point is that one person can ruin our lakes and experiences on those lakes for many people. The majority certainly wanted to have a speed limit as the Lakes Association has suggested. The debate in the Senate, Senator Freese offered an amendment that we accepted. That amendment would remove Lake Winnepesaukee. In reality that sort of gutted 70% of the bill meaning that there will be no speed limits on Lake Winnepesaukee where most of the complaints have taken place. We have both received a lot of correspondence since that time, but I do believe that the Senate Finance left the amendment on and the reason is that no matter if the amendment is there or not, I think we are going to see ourselves in the next year and a half, before this bill goes into effect, having public hearings on Winnepesaukee in discussing boat speeds. I think it was the impression of everyone that there would be certain zones on Winnepesaukee in which there would be unlimited speed and the cigarette boats could go and the great big fancy cabin cruisers that go over 40 miles an hour could go. So, I think that we left the amendment on, Winnepesaukee is not in the bill, but I believe the assumption of both sides is that Winnepesaukee will address the issue of boat speeds individually.

SENATOR DUPONT: Senator McLane, when this came to the floor last time I said that it was unenforceable and poorly written and that there's no way that this bill does anything other than basically say we have a speed limit. Was there anything done in Finance to insure that this bill could be enforced because I assume that when we pass laws here we really want to make sure that people abide by them.

SENATOR MCLANE: I believe that Senator Blaisdell and I met with Mr. Dennis, he insists that he can enforce it and he knows what he is going to do and I certainly believed him. He thinks that what will happen is on the smaller lakes, no boat that can go over 40 miles per hour will take the trouble to get trucked in and go on the lakes and so that that will, in effect, be self policing on the smaller lakes. Because if the boat is there they will assume that they will go over the limit and someone will catch them. On the larger lakes, Mr. Dennis made very clear that what he plans to do is have a good speedom-

eter and in a good old fashion way that cars used to chase cars. If he's going 35 and a boat pulls away from him, his assumption is that that boat will be speeding. A lake is a contained entity and at some point that boat has got to go ashore and, if it is identified, he feels that with proper training his men will be able to take that boat to court. You've got to believe that laws are, in general, self-enforcing because people know the law and because the people respect the law.

SENATOR DUPONT: Senator, I still envision the Department of Safety sitting in their little boat and a boat goes winging by them and they go into court and say, he was going faster than I was so he must have been speeding. As I said before, they don't have the equipment, they don't have the boats and they don't have the people to train people to enforce this bill.

SENATOR MCLANE: I would urge you to speak with Mr. Dennis because he disagrees and the Lakes Association disagree. I do think that Mr. Dennis needs to have his entire budget looked at and that was what we have said we will do in Senate Finance when that budget comes over and all of those lake bills are together.

#### AMENDMENT TO SB 201-FN-A

Amend the bill by striking out all after section 1 and replacing it with the following:

2 Appropriations. The sum of \$1 is hereby appropriated to the department of safety, division of safety services, for the biennium ending June 30, 1989. This is in addition to any other appropriation for the department of safety, division of safety services. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect January 1, 1988.

Amendment Adopted. Ordered to Third Reading.

SB 134-FN-A, To commission a study of an environment risk insurance fund and making an appropriation therefor. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill establishes a study commission to study matters relative to the establishment of an environment risk insurance fund. The bill appropriates from the general fund the amount of \$30,000 for the fiscal year ending June 30, 1988. The Finance committee supports the bill and urges your vote as Ought to Pass.



Adopted. Ordered to Third Reading.

SB 202-FN, Relative to the State Treasurer and the Secretary of State. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: I'd just like to bring your attention to this bill that deals with the Office of the State Treasurer and the Secretary of State. It deals with the funding level that the Senate Finance committee agreed with being fair and appropriate and basically did not amend it and moved it back to the body as it originally came into Finance.

Adopted. Ordered to Third Reading.

SB 220-FN, Relative to redemption after a tax sale. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: This bill came to us and we have not changed it in essence at all. The bill changes the amount of which interest shall be paid for the purpose for redeeming property sold at a tax sale. Currently, in order for a person to redeem this property, he must pay, along with other expenses, interest on the entire amount of which the land was sold and the cost of notifying the mortgagees. This bill requires that that interest shall be paid on only the unpaid balance of the total amount for which the land was sold. Committee recommends ought to pass.

Adopted. Ordered to Third Reading.

SB 161-FN, Relative to state annuity benefits for group II members of the New Hampshire retirement system and making an appropriation therefor. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SB 161-FN came out of Finance unamended. We basically took a look at the financial implications of the bill and agreed that the bill was deserving of the monies in it and our recommendation is ought to pass.

Adopted. Ordered to Third Reading.

Recess  
Out of Recess

Senator Dupont in the chair.

SB 200-FN, Permitting group II state employee members who reach age 60 to make an election for retirement benefits. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: When we reorganized and sent the forensic unit from the State Hospital over to the State Prison we transferred about forty-five employees from Group I to Group II. This was a good deal for them, they are now consider correction officers, but for a small group of them, (10), it wasn't a good deal and these are employees who were eligible to retire at age 60 and could collect whatever retirement benefit services would have entitled them to. However, in Group II you have to work 20 years in order to be entitled to receive any retirement benefits. This bill would make possible those employees who have worked less than 20 years, but have reached age 60, to buy into whatever credit they would be entitled to as though they were in Group I. I think it is a fairness bill. There are very few people involved, but I don't think it's fair to keep them on after they are 60 and want to retire when it is only a portion of their retirement that will be receiving.

Adopted. Ordered to Third Reading.

SB 168-FN-A, Establishing a foster parents ombudsman council. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: SB 168 duplicates what is already in place. The intent of SB 168 is accomplished by a position called the foster parent coordinator who is responsible to the foster parents of New Hampshire. She organizes foster parents into an association that can represent themselves. She deals with individual cases; she takes calls at home and has an 800 number. The committee recommends inexpedient to legislate for SB 168.

SENATOR HEATH: I move to substitute ought to pass for the committee report inexpedient to legislate and would like to speak to the motion.

In its wisdom the Senate listened to the give and take on this bill last time and they passed it. It then went to the Senate Finance committee because there was an appropriation of \$4,000. We're not talking \$50 million here. I try to make my legislation fairly frugal. This is needed because this is not a repeat of something that we've already got. We need somebody and it's going to be a much greater service than the \$4,000 to the state. If you hired a consultant you'd be paying \$10,000, \$15,000 or \$20,000 minimum starting level. The

\$4,000 goes for a secretary so that the foster parents associations can have, if you will, a congress in which they can make recommendations, there's nothing that's mandated in here, to the division of children and youth and other state agencies for foster parent and foster child programs and problems. We need this kind of objectivity. We can't have it done by someone within the State agency because they can't take that kind of objective look. Foster parents are probably our most cost saving device in the state. They take children and compared to the homes where we place children, infinitely less expensive, and they're asking through this bill, and through me for having sponsored it, that they be allowed to have a half-time secretary to have their ombudsman counsel come back to the state and make recommendations on an annual basis as to an improvement. This is a valuable resource to the state, \$4,000 is not a lot of money. It won't buy two acres of the land that we were talking about before, least not in my district, and I would urge you to pass this again as you did before.

SENATOR MCLANE: Senate Finance did look at this bill and they felt that no other state agency has such a paid counsel. We also looked at the present ombudsman. This person is an employee of the Manchester Child and Family Services. This is an independent person and what we felt was that, the expense of \$4,000 for a group that is not in favor of the present director of the division of children and youth, who have harassed that person, who have met with the Governor and are very critical, that this had not been done in any other state agency. In order to support the agency, the division of children and youth and to let the present system work, we felt that we should not spend \$4,000 here that is spent for no other agency.

SENATOR BOND: I rise in support of Senator Heath's motion of substitute ought to pass. This is not a duplication of the present employee of the state who is responsible for resolving foster care problems and I believe that the need for this is demonstrated in the problems that did occur in Carroll County in the recent past. I think that it would be an investment of a very small amount of money, relatively speaking, to establish people who are involved in the foster care programs, to see if they could not improve communication and problem solving for foster parents.

SENATOR JOHNSON: Senator Heath, isn't there also an ombudsman associated with the elderly affairs organization?

SENATOR HEATH: There is.

SENATOR JOHNSON: So this really isn't all that new a concept?

SENATOR HEATH: Ombudsmen have appeared in government for years.

SENATOR JOHNSON: Are you saying, Senator Heath, that the person who is described by Senator McLane is really a department employee and therefore is not likely to be as objective as the person that you envision in this bill?

SENATOR HEATH: That's correct and I would add to that in spite of what Senator McLane said, this is not a bill that is aimed at an individual and in spite of the fact that she has taken it to be that kind of legislation. This has come from several foster parent associations that just feel that they want some input in terms of ideas and so on. It's simply not a bill that's personalized and I don't know why she feels that way.

SENATOR JOHNSON: Would you believe, Senator Heath, that I've had a lot of constituents in my district express concern about the foster parent program?

SENATOR HEATH: I would believe it. I've had calls since the case came up in Carroll County from all over the state and I wouldn't doubt it at all.

SENATOR PODLES: Senator Heath, would you agree with me that the foster parents already have an ombudsman? And her title is foster parent coordinator?

SENATOR HEATH: Absolutely not, Senator, with all due respect. An ombudsman is not a coordinator, a coordinator is not an ombudsman. Just as a donkey is not a horse and a horse is not a donkey. They have different purposes. One is a person who coordinates programs and people to programs and the other is a spokesman who has objectivity, who goes to the state agency and represents people who are clients of that agency in an objective way and not from the agency's point of view. They are very separate functions. You can't serve two masters and you can't be an ombudsman and a coordinator any more than you can be a lawyer for two parties.

SENATOR PODLES: Senator Heath, would you agree with me that your bill, the intent of it, is to establish an ombudsman counsel?

SENATOR JOHNSON: Yes ma'am and to further answer that question and to correct something that was said here, it's not a paid coun-

sel. The \$4,000 is for secretarial, loan of a secretary, so that they can perform their function. Nobody would even be paid for mileage on that council.

SENATOR ST. JEAN: I rise in opposition to this pending piece of legislation. I think on a whole the children and youth department is trying to do a good job. They've had to deal with court ordered placements and I think this piece of legislation, from what I've heard on the committee of Finance, is an unnecessary piece of legislation that borders on a mean spirited piece of legislation. I think what we need to do with children and youth is to look at them and properly fund that particular agency.

SENATOR HEATH: You say you heard it in the committee of Finance. Were you at the hearing on that?

SENATOR ST. JEAN: Down in Finance?

SENATOR HEATH: Yes.

SENATOR ST. JEAN: Briefly, yes.

SENATOR HEATH: Then there was a hearing on it?

SENATOR ST. JEAN: We spoke with the agency, but it was a hearing.

SENATOR HEATH: Do you believe, Senator St. Jean, had there been a hearing and if I had been notified that I might have presented the other side of that question instead of just the agency?

SENATOR ST. JEAN: I believe anything you tell me Senator.

Senator Heath requested Roll Call.

Senator Charbonneau seconded.

Those in favor: Senators Bond, Hounsell, Heath, Freese, Disnard, Roberge, White, Charbonneau and Johnson.

Those opposed: Senators Hough, Dupont, Chandler, Blaisdell, Nelson, McLane, Podles, Stephen, St. Jean, Torr, Delahunty, Preston and Krasker.

9 Yeas

13 Nays

Motion Fails.

Question: Inexpedient to Legislate.



Adopted.

SB 180-FN-A, Relative to restoring the original state house and making an appropriation therefor. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: The committee on Finance met, this bill appropriates \$125,000 to hire an architect to perform an architectural study and to make recommendations on restoring the original state house which is currently located over in Strawberry Bank up on blocks. We feel it's a worthwhile investment of \$125,000 and we urge its passage.

SENATOR WHITE: We have just killed a bill that had \$4,000 in it and now you say that this is worthwhile, committing us to a three million dollar project that we don't know where it's going to be and we're not really sure if all the walls are there?

SENATOR ST. JEAN: To respond, that's what we're going to try and find out Senator. We know in fact that it does exist over there and we're going to find out what it will take to restore one of the four original state houses in the country.

SENATOR CHARBONNEAU: Do you know where this will be moved to, have you acquired the land yet and what the cost of the moving of the building to the land will be?

SENATOR ST. JEAN: It's my understanding that the building currently is on land owned by Strawberry Banke. It will stay there and there will be private contributions in the restoration project. The building will not be moved. I suspect it will be taken off the cinder blocks that it is currently on. Testimony went that it is currently a hazard and they do the best they can to watch it, but the state does in fact own the building, but not the land on which it will stay when it is refurbished.

SENATOR KRASKER: The state house happens to be in Portsmouth because Portsmouth was once the capital of New Hampshire. But it's not a building that is Portsmouth's building. It's one of the most important buildings the State of New Hampshire owns and that's the point. The State of New Hampshire owns one-third, it's the original one-third, of one of the most important buildings in New Hampshire. Since 1969, which was the date that the building was acquired, this building has been standing on stilts, blocks, slowly rotting away. It seemed to us very, very fitting that at a time when

New Hampshire is participating in the bicentennial celebration of the constitution, we take this first step towards preserving our heritage so that future generations can see an original state house. There are only, as you heard, four other original state houses in the country. It's really a small investment. Only the State of New Hampshire can make this initial investment because the building belongs to the state. Having taken this first step as the constitution was saved, or other important structures and buildings, there can be a public solicitation. Museum funds, grants, there is the possibility once we know what's required to raise the money through private sources so that it will forever exist for the people of New Hampshire and I thank the committee for their recommendation and hope you'll support it.

SENATOR HOUNSELL: I rise in strong support of the passage of this legislation. I do so for much the same reason that I supported the last bill and I know some people didn't support the last bill. But I think it's important that if nothing has changed drastically, no new information has come through, this Senate has acted once before on this measure that we draw enough focus on this and we see that this bill is important because it is part of our heritage. New Hampshire was a state that in this building put the life, by it's vote, the life into the constitution. This is the bicentennial celebration of the constitution; I think it's fitting that we do it at this time. That we study this, that we work this and that we come up with some sort of program that is positive. I think it's a wonderful piece of legislation, Senator Krasker, and I hope that as we perceive through this day that you are successful getting the support of your colleagues in this Senate so this can go to the House for final passage and onto the Governor for his signature so we can do something that we can be proud of.

Adopted. Ordered to Third Reading.

SB 78-FN-A, Relative to benefits for a spouse upon the death of a retired group II member: Ought to Pass. Senator Delahunt for the Committee.

SENATOR DELAHUNTY: The purpose of SB 78-FN is to increase the benefits paid to a spouse upon the death of a retired Group II member to fifty percent of the member's retirement benefits. This allowance is in addition to the lump sum payment currently made upon group II member's death after retirement. These dollars will come from the special fund which has the money available. The special fund was set up to provide additional benefits for the group

which has requested this benefit. The Finance committee urges your support by SB 78-FN as ought to pass.

Adopted. Ordered to Third Reading.

SB 236-FN, Relative to the chief examiner and associate chief medical examiner. Inexpedient to Legislate. Senator Blaisdell for the Committee.

Senator Blaisdell moved to recommit.

Adopted.

SB 196-FN-A, Relative to health hazards in the home and making an appropriation therefor. Inexpedient to Legislate. Senator Hough for the Committee.

SENATOR HOUGH: The committee's position on this piece of legislation is that it is a request on the behalf of the department to address a very serious situation. It was not included in the original budget message by the Governor. If the Senate position is to support this position it should be handled within the Department of Health and the Division of Human Services, along with the other charges that they have under statute. If we can when we look at our version of the budget, give them the support so they can accomplish the objectives of this act, this is where it should be. That's the committee's position.

Adopted.

### RECONSIDERATION

Senator Preston moved reconsideration on SB 196-FN-A, Relative to health hazards in the home and making an appropriation therefor.

Adopted.

Question: Inexpedient to Legislate.

Senator Krasker moved to substitute ought to pass.

SENATOR KRASKER: This bill came before our committee. It's an act relative to health hazards in the home especially Radon and the Senate passed this. I have been told by Public Health that in the past few months they have had 2400 calls from homeowners concerned with the problem of Radon and there's nothing they can do

about it because they don't have the authorization to deal with it. Radon is emitted naturally from certain types of granite. We are a granite state, so it's a problem we're faced with. The amendment, which I will distribute, will appropriate the sum of one dollar and in that way get the legislation over to the House because, I repeat, without this bill Public Health has no authority at the present time to go in and do testing for homeowners.

SENATOR DISNARD: Would you believe in the last six months there has been contamination of Northwood Oil and Gasoline, chlorination in Epping, formaldehyde in Henniker and the investigation of many health complaints at the elementary school in Nashua. The State has only been able to investigate one out of every four?

SENATOR KRASKER: That's correct Senator Disnard. That's why our committee supported this legislation.

SENATOR HOUNSELL: You're asking me to vote on this bill at this time, ought to pass. Is that what you're asking?

SENATOR KRASKER: I'm asking you to vote on the bill that was amended. The amended version of the bill, which we worked on in the Public Institutions Committee, is not the original bill. There were, I think, five amendments that were worked on jointly between the realtors and public health. We sat in our committee and we made these amendments because there was a fear that there would be a confrontation with homeowners, and so, we amended the bill and it was satisfactorily agreed on by all the parties who came to the hearing. The realtors were one of them who had a problem. Unfortunately it is my understanding that when the amendment was printed in the journal the day the House voted on it, it did not include all of those amendments, but I very carefully enumerated all of them when I gave the report of the committee to the Senate. This is a bill that was not objected to by any of the parties with the amendments.

SENATOR HOUNSELL: The bill that I have before me was referred to Senate Public Institutions of Health and Human Services. Does the bill that I have before me have the amendments that your committee recommends?

SENATOR KRASKER: My amendment will reduce the appropriation to a dollar but the bill that you have before you should be the bill that the Senate passed which included the amendments.

SENATOR HOUNSELL: The question I guess at this time, would be to the Chair. Is the motion before us is ought to pass on this thing?

CHAIR: It would be ought to pass on the bill as amended by the Senate sent to Finance.

SENATOR BOND: I rise in support of Senator Krasker's motion. We passed this with an amendment and sent it to Finance because there was a clear need as demonstrated by Public Health. I'm not Public Health's favorite Senator, however in this case I did agree with them that there is a need; there is a constant public demand and that's what our government is here to serve is the public need. People are concerned about Radon and public health has to answer their questions and, they have to provide the equipment. It turns out that they probably can do the job without any of the \$109,000 that they said that they did need by working positions around and using lab equipment that they have. I would urge you to support Senator Krasker's motion of ought to pass so that she can put in her amendment which would remove the funding and would pass it along to the House as a piece of needed legislation.

SENATOR HOUNSELL: I'm going to vote for the motion that is before us because I understand that the amendment will clarify the real issue, but I would like to say that I am voting for this reluctantly, but for my colleague from District 24 I'm doing it out of courtesy.

SENATOR JOHNSON: I rise in support of this bill ought to pass with the expectation that there will be an amendment thereto. I have spoken to a number of the officials associated with public health and they've conveyed to me an urgent need for the authority to be able to go in, in a response to a request and investigate some of the potential air problems within a home.

Adopted.

Senator Krasker offered floor amendment.

SENATOR KRASKER: What the amendment does is reduce the appropriation to one dollar and this will allow the bill to go over to the House with the authorization. The feeling among the officials of public health is that if they get additional positions in the budget they will be able to handle this so the appropriation that was called for won't be necessary. This will allow that adjustment to be made.



SENATOR HOUNSELL: Senator Krasker, does this give the authority of the state to go into a person's home to determine if there is a health hazard if a neighbor thought there might be a health hazard of Radon, for example, that's coming from someone else's house?

SENATOR KRASKER: No, it's the homeowner or the renter, with the knowledge of the landlord.

SENATOR HOUNSELL: Is this sent for the hazard of what's known as Radon?

SENATOR KRASKER: Yes, one of the reasons for the bill is that there have been so many cases of Radon reported and right now, health officials in the municipalities don't have the equipment - don't have the equipment, that's the key - to go in and do the testing. What this bill will enable public health services to do because they have the equipment, is upon invitation to go in and test the premises.

SENATOR HOUNSELL: Are you aware that there are people who provide this service and they are in business to provide this service for the public if they have a concern can go through private enterprise to find out if there is a Radon difficulty?

SENATOR KRASKER: I don't think it interferes with this. I think it just enables the state upon request of local health officials, primarily local health officials, to offer this service.

#### Floor Amendment to SB 196-FN-A

Amend the bill by replacing section 5 with the following:

5 Appropriation. The sum of \$1 for the biennium ending June 30, 1989, is hereby appropriated to the division of public health services, department of health and human services, for the purposes of this act. This appropriation shall be in addition to any other appropriation made to the division of public health services. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

Amendment Adopted. Ordered to Third Reading.

Senator Nelson - Rule 42.

#### COMMITTEE REPORTS

SB 81-FN-A, To increase the shelter allowance for aid to families with dependent children, and making an appropriation therefor. Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: I want you to all appreciate this, that I'm standing up on my shelter allowance bill that I wept and cried over and you guys gave such a nice vote to as we sent it down to Senate Finance. And I appreciate that and I believe that there are 4,000 women out there who appreciate it as well.

What we decided to do in Senate Finance was to work with the House version of the shelter allowance as it appears in the House budget. At this point that shelter allowance is at 228, but there also are other sections of the House bill coming over that are perhaps a far greater import to poor mothers and children and that is putting the standard of need up to 100%. Because I feel very confident that Senate Finance will look with great concern on these AFDC families and with the knowledge that they understand, as well as I, that the present standard by which we care for these families is intolerable. I have gone along with the motion inexpedient so that we can all work together to coordinate all three aspects - child care, medicaid and the shelter allowance - and work them into one package that will really mean something for these AFDC mothers and for that reason I urge you to go along with the committee report, inexpedient.

Adopted.

SB 82-FN-A, Relative to funding for the New Hampshire Veterans Resource/Counseling Center, and making an appropriation therefor. Inexpedient to Legislate. Senator Hough for the Committee.

SENATOR HOUGH: The committee on Finance recommends inexpedient to legislate on SB 82-FN. As a matter of fact, on the surface of it having looked at the bill, we moved to pass the bill. When we did that it was a consideration of a standing and existing counseling program in the North country that came about as a result of the past list sessions of the legislature where a special veterans needs assessments committee was established and the proceeds of the Old Vietnam Veterans Bonus fund were used to fund various activities, one at the prison, one in the Manchester area and this program in the North country. It was our thought that this was an extension of an existing outreach program. However, we then contacted Mr. Houle of the Veterans Need Assessment Committee and reviewed this further with him. You should understand that the Northern three counties of New Hampshire are served by the Veterans Administration Hospital in White River Junction, Vermont, which is a very large veterans center. They have established and are increasing their activities in the outreach counseling programs in the Northern three

counties. The point is that this center came out from the umbrella of the Northern New Hampshire Mental Health System in June of 1986 and is no longer under their sanction. They are on their own and we didn't feel that a new state appropriation was warranted in this instance. That's the committee's determination. I can tell you that the various veterans organizations that we have been in touch with, do not support this. I can also tell you, that as a Vietnam Veteran from the North Country, I'm very sensitive to the needs of counseling and support services and I'm aware of what was and what is and what is yet to come and this counseling center is not consistent with the good service that is warranted in this area. The committee's report is inexpedient to legislate.

Senator Charbonneau has been excused for the rest of the day.

Senator Heath moved to substitute Ought to Pass.

SENATOR HEATH: I understand as I get up here for the third time today that I'm climbing a long steep hill, but this is one that I have to do as much as I know that I'm probably doing it in vain. This group of people have done so many things that I hear from, incidentally not as a politician going around the district because their work far exceeds my district, but from a friend of mine who was suicidal who they brought through some bad moments. From the chief of police, from various other groups and individuals and it's true there's a split in the veterans community. Some groups support them and some don't. The criticism largely has been that they had slipped out from under the umbrella, that they do more than specifically those things which they were originally funded for. They are a force for good and I amended the bill in committee asking that we drop the appropriation down to \$20,000, give them a one time shot at getting their own funding going from the \$20,000. That's seed money for them to go off on their own and to supply their own thing. They work with post-traumatic stress disorder, they work with World War II veterans, they work with alcohol problems and we've already seen some support in the Senate for those programs. This is one that'll cost you nothing or next to nothing. They work in suicide prevention, they've even worked, and this is one of the things they get criticized for, in rape counseling.

I've got some 30 letters and I'll just take some of them and tell you who it is that have written letters of support. The New Hampshire Veterans Home, Ken Tarr, Commandant has written a letter of support; The Sandwich Selectmen, James D. Quay who talks about

them saving the courts money; from Lancaster, New Hampshire; Latch Key Counseling in Laconia, New Hampshire; The White Mountain Mental Health and Developmental Services in Littleton, New Hampshire; at Plymouth State College, Josephine Hayslip, Counselor and Educator; the New Hampshire Technical Institute, David Morin, Department Head at Human Services Program; Ellen Dempster, 37 years as a clinical social worker at the Vietnam Veterans of America in Concord; Gary Place, President; The Veterans of Foreign Wars, Bob Jones President; the Androscogen Valley Mental Health Center in Berlin. Numerous others, the Chief of Police in Meredith, the Selectmen in Meredith, the whole area that they serve knows what a resource they are and what they have been. They were funded for two cycles and this funding is a one time, \$20,000 general funds appropriation to send them off to get them on their feet, raising their own funds to continue doing what they do and in all the testimony that we had, no one said that they weren't a positive force and doing a great deal of good in the area that they serve. I plead with you to give them this one last shot at funding themselves.

SENATOR HOUNSELL: I know people keep looking at their watches, I'm hoping that we can get through pretty quick, but this is important. I just want to give to you some information about this service. It does seem to take place a lot in the North country, I don't know if that's because it's rural or what the reason is but I've had a lot of contact with people in regards to this. I really do appreciate Senator Hough's comment. Senator Hough is a Vietnam Veteran and I hold people who have served in Vietnam in special admiration and I think Senator Hough is sensitive in a way that I cannot be. However, I am informed, Senator, and I have been at Plymouth State College and I've seen Vietnam Vets at the college attempting to get their lives together, if you will, and also struggling. They've called on one another; they use one another and they need our kind of support. This isn't a big appropriation. This is an appropriation that becomes like a seed and you plant it and you never know the good because of the pain that they suffer and the counseling that they do is one-on-one and it's not really broadcast and publicized. I'm afraid if I tell you that this is a north country phenomena, I may not have the votes, but I don't believe that the people in the southern half of the state forget about the northern half even though that's been expressed before on other issues. I think when you've been made aware of what we're talking about, that you're talking about people helping people and asking us for just a little bit of help, so that they can continue to help one another, that's the issue before us. In all due

respect to Senator Hough, I think that there is a lot of support from veteran groups, at least people that I've talked with and people who have contacted me and I would urge that we adopt the substitute motion of ought to pass.

SENATOR BOND: I also rise in support of Senator Heath's motion substitute ought to pass. I know of no alternative resources for Vietnam veterans in the north country. I did not know what the reason for Mr. Pooles lack of support for this was, so I did some research and did find that there are some divisions of veterans interest in the state, but in terms of whether or not those people within this group have rapport with the organized veterans effort in the North Country, these are the people who are providing the necessary support for people who need that support on a human, one-to-one personal basis. I think that Senator Heath's approach as addressing this as seed money, a challenge, is the proper way to go and I strongly support your vote for ought to pass.

SENATOR MCLANE: I rise in opposition to the pending motion and I'm sorry that Senator Heath would not answer my question. Because I have great respect for Ken Tarr who is the commandant and has been for many years of the New Hampshire Veterans Home. Ken Tarr came to see me particularly, in fact, he came down here yesterday to tell me of his opposition to this bill. So, I was going to ask Senator Heath if he would share with us this letter because I was, as I say, I take my key on veterans affairs from Ken Tarr; and Ken told me yesterday that he felt that this was a group that was not qualified to counsel, that it was a very complicated important thing to counsel a Vietnam veteran and that these people needed to be qualified and that they were not. That was the message that he conveyed to me yesterday.

SENATOR HEATH: Senator McLane would you accept my apology for not accepting your question? It was the first time that I have not accepted a question and it was in a moment of peace that I didn't and I would be glad if you had that question to repeat on the letter from Kenneth Tarr.

SENATOR MCLANE: Thank you, I'd be happy to. I would like you to share the date and the sentiment of Ken Tarr's response.

SENATOR HEATH: Ok, it's a very short letter, it's from Ken Tarr, Commandant for the New Hampshire Veterans Home in Tilton. It's addressed to Steven Bass, the Director of the New Hampshire Veterans Resource Center for the group that we're talking about.



"Dear Steve, I regret that my appearance before the capital budget overview committee is scheduled at the same time as your meeting on November 13, 1985 with members of the legislature. As a prior member of the State Veterans Needs Committee, I consistently voted to support the north country counseling service that you provide. I did so, for the network of veterans of whom I am familiar have indicated to me the value of your professional services rendered. As a matter of fact, it was the only program deemed worthy of my support prior to my resignation from that committee. You have my best wishes and total support in your continuing efforts to provide a most meaningful service to those who are so desperately in need. Sincerely, Ken Tarr. November 7, 1985"

SENATOR MCLANE: I guess that that is perhaps the reason why Ken Tarr came to see me, was that that letter was written in 1985. Since that time, he must have changed his mind because he certainly told me very clearly yesterday, that he did not support funding for this group.

SENATOR HEATH: Did he tell you why he changed his mind?

SENATOR MCLANE: I did not know of this letter. He found me yesterday and he went to great lengths to find me because I was in Senate Finance. He told me that he was happy to see that that bill was inexpedient and that he did not support it. So I did not discuss that letter written two years before because I had no knowledge of it.

SENATOR WHITE: I rise in support of the pending motion. We worked at great lengths on the fiscal committee, as Senator Hough knows, with the various veterans groups when this was a seed program and trying to get off the ground to help the veterans in the State of New Hampshire. As we approach or have gone past the 40th anniversary of the second world war, and those people are getting ready to retire and we have an increased population of veterans in the State of New Hampshire, I think it's programs like these that we need to support the veterans in the State of New Hampshire. It's unfortunate that every time some of these bills get brought in, that unfortunately sometimes I regret that they're looked at as to who's bringing the bills in. I was going to do a rule 44 on this, but we've just heard a turning down of \$4,000 on SB 168, on an ombudsman, and now we have another. I hope that everyone else is speaking to the bill when they are voting inexpedient to legislate. It's a very worthwhile project and I think it should be funded and I would hope

that people would look at it as a beginning to helping the veterans in the north country. As I said earlier, it's an expanding program and it's expanding veteran population in the State of New Hampshire and the veterans in World War II are all getting to be 60 and older. My husband is a veteran of World War II and he's 60 years old. He doesn't need this type of counseling, but there are a lot of people who do need it. I would hope that you could pass this bill.

SENATOR KRASKER: I, too, will support Senator Heath's motion. I am on the Public Affairs Committee and listened to lengthy testimony in support of this bill. Mr. Tarr was not there. He did not send any testimony to the contrary, but the testimony that we heard was very positive in favor of the services that are rendered in that area. I think if Senator Pressly were here she could speak for the committee, so in her place I would tell you that it was a unanimous vote of our committee to make this appropriation of \$20,000. I think it's very needed to continue what they have begun in that area.

SENATOR JOHNSON: I rise in support of the ought to pass amendment and I too sat as a member of the Public Affairs committee and listened to the testimony that day. In all frankness, this is not a real clear cut issue, in my opinion. However, there is enough merit to this program being addressed by this bill to go forward and support it. There was enough merit to it and I urge this body to go forward and support this bill.

SENATOR PRESTON: With all due respect to the committee report, and I'm getting a feeling that the lateness of the hour we're taking it personal if we speak against a committee report, I don't want my vote interpreted in that manner, Senator; but I'm going to support the ought to pass motion.

I served briefly on the fiscal committee when we voted the sum of \$100,000 I think because some of the north country veterans felt as though they didn't have the services that we had in the southern part of the state. Frankly, I hear three Senators from the north country saying this is a good thing, give us a chance to provide the \$20,000 and, Senator Heath, I'll support you and I'm sorry that Senator White had to allude that there were personal votes in other issues because I don't think that's entirely true. I support the bill, I support the veterans and frankly, I don't think we do enough for them and it's not because I'm trying to embarrass Senate Finance.

SENATOR BLAISDELL: As Chairman of Finance I guess you remember before I was appointed Senate Finance Chairman that I

said, that the Senate should be the Senate, we haven't yet seen anybody peeking through that door over there, as I remember, in the last couple of sessions. The Senate belongs to us and I said I would go along with what the Senate votes. I have no personalities against Senator Heath, and I want that clearly understood, or anyone else in this room. I voted on the merits of the bill and what I heard in Senate Finance as we called people back in after we passed the bill. After we passed the bill we brought back in the Veterans Counsel at the request of some people and they talked to us and convinced us. Please, and I want you to understand that I'm very happy with what's going on today because the Senate belongs to the Senate and the Senate will make its decision and that's what I campaigned on last time for. Whether you overturn a Senate Finance committee report, I couldn't care less. As long as in your heart you voted the right way and the way you think you should vote. So please, don't take it personal. Whatever you want to do to my committee report, you get on the floor and you state your views. It didn't happen in the last session of the legislature because we didn't want to embarrass a few people.

SENATOR MCLANE: I've never asked to speak a second time but I just spoke with Ken Tarr on the phone because I wanted to make absolutely sure that I understood him yesterday. He said that he had spoken with both the North Country Mental Health Association and with the Veterans Hospital in White River Junction, both of them had informed him that they didn't feel the counselors were qualified, and so therefore, he is in opposition to the bill.

SENATOR HOUNSELL: I didn't want to bring it up like this because I didn't want to make this discussion any sort of personality, but are you aware of any conflict that the organized administratively attached veterans medical profession has with the way Mr. Bass conducts his business as he has to go out and talk to people one-on-one?

SENATOR MCLANE: No and if I felt that this was either an anti-Vietnam Vets situation, I think I'd listen to Senator Hough on that.

SENATOR HOUNSELL: Would you believe that I think Senator Hough has a focus that I don't have, but that I happen to believe that there are some people who are involved in the professional side of things that don't appreciate Mr. Bass's unique way of helping people on a one-to-one basis? And I think that's what they are objection to is, not the objection to the program, but their personal objection to Mr. Bass.

SENATOR MCLANE: I'm sorry that you feel this way and I guess perhaps we have a situation here of a controversial program and I just think that there is feeling that state funding shouldn't go into that program against the wishes of those people that do run the state veterans groups.

Senator Preston moved the question.

Adopted.

Senator Hounsell requested roll call.

Senator Bond seconded.

Those in favor: Senators Bond, Hounsell, Heath, Freese, Chandler, Disnard, White, Nelson, Johnson, Preston, Krasker.

Those opposed: Senators Hough, Roberge, Blaisdell, McLane, Podles, Stephen, St. Jean, Torr, Delahunty.

11 Yeas

9 Nays

Adopted. Ordered to Third Reading.

SB 47-FN-A, Establishing an industrial agent for Sullivan and Cheshire counties and making an appropriation therefor. Inexpedient to Legislate. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: We ask that you go along with the inexpedient to legislate. This is a bill sponsored by Senator Disnard and myself. Senate Finance looked at it, we'll be looking at these positions in the budget and we requested it be inexpedient to legislate.

Adopted.

SB 142-FN-A, Increasing rates for shared homes and certain residents of community living homes and making an appropriation therefor. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Senate Finance met on Senator Freese's bill, which would increase the shelter allowance for shared homes. It's currently \$560, Senate Finance increased that to \$685 which is not all that the individuals who came before Senate Finance wanted, but we felt it was fair and equitable increase at this time.

SENATOR CHANDLER: I support the report of the committee and hope that the Senate will pass the bill.

SENATOR FREESE: I'd like to thank Senate Finance for their support of this bill. It isn't all we asked for, for the shared homes, but every little bit helps. Last year or the year before I sponsored a bill to get them a little more money and we did just that and this time you came through again with an appropriation that will help them a great deal. It'll be enough incentive, I believe, to keep the homes in operation. However, it will give them no extra money, almost probably no profit. But again I want to thank the Finance committee for giving them an additional amount of money.

#### AMENDMENT TO SB 142-FN-A

Amend the bill by replacing section 1 with the following:

1 Supplemental Appropriation. The sums of \$258,958 from federal funds and \$1,276,082 from general funds for the biennium ending June 30, 1989, are hereby appropriated to the division of human services, department of health and human services, for the purpose of increasing the standard of need under RSA 167:7, I-a, for residents of shared homes and for residents of community living homes who do not receive subsidies from the division of mental health and developmental services. This appropriation is in addition to any other funds appropriated to the division of human services, and such amount shall be reduced by the amount of any federal funds received. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment Adopted. Ordered to Third Reading.

HB 426, Allowing the rendition pursuant to the Interstate Compact on Juveniles of a juvenile charged with delinquency. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: The State of New Hampshire to join most of the 32 other States in the country, in the use of the NCIC center in Washington, DC. In June of 1957, the original bill was put forth by the federal government and has been adopted by all 50 States.

What this bill does is, it allows not only for taking the juveniles that have been adjudicated, but also it allows those that are pending charges but not adjudicated to be included in the NCIC register. There wasn't any opposition to the bill and Mary Kenniston from the Department of Corrections came over and explained that basically this is just an amendment to the current people that are there and the only difference from the current legislation is on lines 5 and 6 of



the bill wherein it says, any juvenile, and that covers and makes us uniform with the 34 other States in the nation.

Adopted. Ordered to Third Reading.

HB 518, Relative to enforcement of the underground utility damage prevention system. Ought to Pass with Amendment. Senator Nelson for the Committee.

SENATOR NELSON: HB 518 was requested by the Public Utilities Commission. Presently the State of New Hampshire has legislation requiring participation by all utility companies in an underground damage prevention system called The Dig Safe Program. Until now the Public Utilities Commission has been authorized to investigate the complaints relating to Deep Safe, but has not had the authority to initiate the action. This legislation would authorize the Public Utilities Commission to institute or request the Attorney General to institute legal action to enforce the provision of the underground utility damage prevention system laws. This was an Interstate Cooperation and there were three members present and it passed the committee three to zero. The amendment just inserts the words, "The Dig Safe Program".

#### AMENDMENT TO HB 518

Amend RSA 374:55, V as inserted by section 1 of the bill by replacing it with the following:

V. The commission or any commission employee, involved in the "Dig Safe" program and designated by the commission, may enforce violations of this subdivision by initiating, or requesting the attorney general to initiate, an action in any appropriate district court. Any excavator or utility company which suffers damage resulting from violation of this subdivision may request the commission to initiate, or request the attorney general to initiate, such action.

Amendment Adopted. Ordered to Third Reading.

HB 94, Relative to real estate attachments. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This is regarding real estate attachments. Back in 1976 a law was passed that said, no judgement that is involved will last more than ten years. That was intended to wipe the slates clean of some old attachments that had just been sitting for

years and perhaps those deceased or people who settled and they hadn't been cleared off the slate. Attorneys being attorneys, suggested or thought that this took care of everything after 76, but what about the ones before 1976? So, this is just housekeeping and it should save the consumers a lot of money on title search time.

Adopted. Ordered to Third Reading.

HB 99-FN, Relative to district court sessions in towns within a district. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: HB 99 allows for abolishing the district court sessions in certain towns if the local legislative body, which in most cases means, the town meeting votes to do so. This is a home rule alternative; it starts a warrant at town meeting. Basically it puts a procedure in place where there was none. The vote was six to nothing out of the Judiciary Committee.

Adopted. Ordered to Third Reading.

HB 328-FN-A, Relative to business profits tax liens. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: HB 328-FN was requested by the Department of Revenue Administration and what it does it amends the current law relative to the continuation of tax liens issued by the Department of Revenue for delinquent taxpayers. Under current law, tax lien exist for one year from the date of recording. If the tax bill is not paid within one year, the Department of Revenue must refile its lien with the appropriate registry of deeds, in order to continue its lien against assets of the delinquent taxpayers. HB 328 will allow the lien to continue until the taxes are paid or the claim becomes unenforceable. It also will not effect the priority of liens and is not intended to effect the priority of liens as they currently exist under law. HB 328 will benefit those taxpayers against whom the lien is placed as the cost of recording the lien at the county register of deeds is at the expense of the taxpayer and it also removes the necessity of re-recording such liens annually. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

HB 458-FN, Relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: Basically this bill provides that the district and municipal courts shall, after deducting court expenses, pay the fines collected for violations of most municipal ordinances, codes or regulations over to the municipalities whose ordinance, code or regulation was violated. Before we had HB 200 and the state took over the courts as you know, all of this money stayed with the particular district court. I always had a problem because the district court wasn't in my town and Jaffrey seemed to make all the money on zoning ordinances. But this piece of legislation, at least if there is money left over it will go back to the town to help fund some of their cost in taking these cases to court. The one thing that is not included in this bill is the traffic and highway regulations. Those monies would still continue to go to the state. Those are the biggest parts, but it would include the zoning ordinances that we have. The vote in committee was unanimous of six to nothing all in favor of ought to pass. One reason were probably here is because the committee secretaries kept being told to get the reports out, so that, we kept pushing reports out.

Adopted. Referred to Finance under rule #24.

HB 78-FN, Relative to flying the POW-MIA flag over the state house. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: The amendment simply changes the effective date from 60 days to upon passage and the purpose of that is to allow this bill to take effect prior to Memorial Day. The analysis on HB 78 is incorrect. The POW-MIA flag would only be flown above the State House on Memorial Day, Independence Day, POW-MIA Recognition date to be determined, and Veterans Day and there was no opposition to this bill. The Veterans supported it extensively over on the House side and did not come out in force before the Senate. Public Affairs committee knowing that the wisdom of that committee would prevail here and we urge ought to pass with amendment.

#### AMENDMENT TO HB 78-FN

Amend section 2 of the bill by replacing it with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 609-FN, Relative to the New Hampshire National Guard. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This bill had no opposition in its public hearing. It basically does a number of housekeeping measures for the National Guard. The first one is, it brings New Hampshire into the uniform code of military justice in terms of nonjudicial punishment and it allows some discipline within the ranks. General Lord Price testified in favor of it. The second position authorizes the Adjutant General to enter into contracts with the counties for the keeping of military prisoners. This would only occur after the Guard has been mobilized and before it has arrived at its point of destination when its authority would go over to the larger military unit. It also deletes willfully and necessary from a statute prohibiting discrimination against the Guard because it has been shown in the past that that makes it an impossible statute to enforce. This was a fully agreed on unanimous committee report and I'd urge you to support it.

Adopted. Ordered to Third Reading.

HB 644, Relative to zoning exemptions for certain utility structures. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This legislation allows the town and the public utility to make an agreement. It's only permissive relative to exempting the little cabinets you see that are used for telephone connections and such like. It limits it to 200 square feet and it was supported by both John Andrews of the Municipal Association and by a number of municipal authorities as well as by representatives of the utilities. There was no disagreement towards this. I think that's because it's permissive only and I would urge the body to support it.

SENATOR PRESTON: Senator Heath, just for the record, does this pertain at all to any poles, that may be higher than usual, that might have sirens on them or anything because at the seacoast we have court cases pending with municipalities and Public Service Company?

SENATOR HEATH: I can't answer that with absolute authority, but it's my impression it is structures of a different nature and it would only be with the agreement of the municipality and I think that's where with your situation, and if I think you're referring to the one, either would or wouldn't take place, but it certainly wouldn't take place without the agreement of the local authorities. If those poles fell under it and the local authorities didn't want them they would certainly not be included here.

SENATOR PRESTON: So, it requires local approval the Senator?

SENATOR HEATH: Yes, it's only permissive if the local authority makes the agreement with utility.

Adopted. Ordered to Third Reading.

Senator Roberge wished to be recorded as opposed.

HB 362-FN-A, Relative to returns and taxable meals under the meals and rooms tax. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: The committee voted ought to pass. I have a very brief summary by Arthur Danni, Assistant Commissioner of the Department of Revenue Administration, which I will refer to. Section one of the bill incorporates requirements of the food security act of 1985 for which an implementation extension has been granted by the US Department of Agriculture until 1987. The Department of Revenue Administrations worked closing with the staff at the food stamp program on this matter to assure that New Hampshire food stamp program would not be jeopardized which would hurt if New Hampshire does not comply with the 1985 act. Very few foods that can be purchased with food stamps fall into the category of meal as said forth in RSA 78-A:3. The only food item which we can perceive as being purchased with food stamps and subject to the meals and room tax, would be sandwiches. Incidentally, stamps cannot be used in restaurants. Section two simply corrects an error in RSA 78-A:7 IIII, which now cites the tax at 6% when it should have been cited at 7. Section 3, the law presently states that a returns due on the 17th day of a calendar month following the collection of the tax and poll. If an operator did not collect any tax during given month, he is not now required to file. The Department has established rules in accordance with 78-A:9 which would allow the filing of the returns on a quarterly or seasonally basis. This tax is fully computerized and when a return is not filed as required, the computer will automatically recognize the non-receipt of a return as a delinquent filer, which generates unnecessary manhours in contacting the operator and verifying that no tax was collected. The meals and room returns for all 12 months are furnished to the operator and most operators routinely file each month's return now, whether or not they have collected any tax money.

Adopted. Referred to Finance under Rule 24.

HB 275-FN, Establishing a public investments study committee. Ought to Pass with Amendment. Senator Roberge for the Committee.



SENATOR ROBERGE: This bill simply establishes a seven member public investment committee to study which types of investments would be suitable for public funds. The committee voted ought to pass.

SENATOR JOHNSON: Is this bill really necessary?

SENATOR ROBERGE: Well the State Treasurer felt that yes, we could use a revision of the vehicle in which to invest at this time. Because there are more vehicles now that would be suitable for public investment than there have been in the past and she felt that this should be reviewed.

#### Amendment to HB 275-FN

Amend the bill by replacing section 6 with the following:

6 Tenure of Committee. The committee shall cease to exist on December 31, 1987.

7 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 431, Relative to treasury deposits. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: HB 431, this bill is supported by the State Treasurer, Georgie Thomas, it provides for setting a time frame whereby she has a time frame where she can deposit state funds in banks and savings banks. Presently there is no set time frame and she feels that the set time frame would be more helpful to her in complying with the law.

Adopted. Ordered to Third Reading.

#### RULE SUSPENSION REFERRAL TO FINANCE

SENATOR BLAISDELL: As chairman of Senate Finance I'd like to waive referral to Senate Finance on SB 192, establishing the office of state auditor. I don't think I need it down there and I'd appreciate it if we'd just pass it out.

CHAIR: I guess I have the authority to do that so it is so done. I waive referral to Senate Finance.

SB 192-FN-A, Relative to the membership of the legislative fiscal committee and the legislative budget assistant and making an appropriation therefor.

## RESOLUTION

Senator Hounsell moved that the Senate now adjourn from the early session, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, April 7, 1987 at 1:00 p.m.

## LATE SESSION

### Third Reading and Final Passage

SB 121-FN-A, Authorizing the attorney general to undertake proceedings on behalf of resident taxpayers of this state regarding certain taxes imposed by the state of Maine.

SB 145-FN, Relative to study of the state classification system and making an appropriation therefor and directing the facilities committee to conduct a study of salaries for unclassified state employees and making an appropriation therefor.

SB 219-FN-A, An act relative to a state operated multiple DWI offender minimum security detention center and making an appropriation therefor.

SB 192-FN-A, Relative to the membership of the legislative fiscal committee and the legislative budget assistant and making an appropriation therefor.

SB 10-A, Permitting state participation in a Clean Water Act State Revolving Loan Fund.

SB 212-FN-A, Increasing financial aid to certain municipalities for water treatment projects and making an appropriation therefor.

SB 75-A, An act authorizing the study of the feasibility of reconstructing U.S. Route 1 from Massachusetts line to Portsmouth, New Hampshire, to increase capacity and safety, and making an appropriation therefor.

SB 112-A, An act making an appropriation to the department of safety for certain capital improvements.

SB 151-A, An act relative to traffic improvements at the intersection of New Hampshire routes 9 and 155 and making an appropriation therefor.

SB 187-FN-A, An act relative to the Weeks traffic circle.

SB 128-A, An act authorizing the construction of a Keene bypass extension and making an appropriation therefor.

HB 526-FN, Establishing a department of safety.

SB 6-FN-A, To provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor.

SB 74-A, Relative to the port authority.

SB 125-FN, An act to appropriate funds for ocean disposal of Rye Harbor dredge material.

SB 175-FN, Providing a cost of living increase for New Hampshire retirement system and teachers retirement system members.

SB 201-FN-A, An act relative to boat speeds on public waters and making an appropriation therefor.

SB 134-FN-A, An act to commission a study of an environment risk insurance fund and making an appropriation therefor.

SB 202-FN, An act relative to the state treasurer and the secretary of state.

SB 220-FN, An act relative to redemption after a tax sale.

SB 161-FN, An act relative to state annuity benefits for group II members of the New Hampshire retirement system and making an appropriation therefor.

SB 200-FN, An act permitting group II state employee members who reach age 60 to make an election for retirement benefits.

SB 180-FN-A, An act relative to restoring the original state house and making an appropriation therefor.

SB 78-FN-A, An act relative to benefits for a spouse upon the death of a retired group II member.

SB 196-FN-A, Relative to health hazards in the home and making an appropriation therefor.

SB 82-FN-A, An act relative to funding for the New Hampshire Veterans Resource/Counseling Center, and making an appropriation therefor.

SB 142-FN-A, An act increasing rates for shared homes and certain residents of community living homes and making an appropriation therefor.

HB 426, Allowing the rendition pursuant to the Interstate Compact on Juveniles of a juvenile charged with delinquency.

HB 518, Relative to enforcement of the underground utility damage prevention system.

HB 94, Relative to real estate attachments.

HB 99-FN, Relative to district court sessions in towns within a district.

HB 328-FN-A, Relative to business profits tax liens.

HB 78-FN, An act relative to flying the POW-MIA flag over the state house.

HB 609-FN, An act relative to the New Hampshire National Guard.

HB 644, An act relative to zoning exemptions for certain utility structures.

HB 275-FN, An act establishing a public investments study committee.

HB 431, An act relative to treasury deposits.

Adopted.

Senator Hounsell moved that the Senate be in recess until Tuesday, April 7, 1987 at 1:00 p.m. for the purpose of introducing legislation, referring bills to committee, scheduling hearings, and receiving Enrolled Bill reports.

Adopted.

Recess

*Friday, April 3, 1987*

Out of Recess.

Senator Dupont in the Chair.

## HOUSE MESSAGE

### INTRODUCTION OF HOUSE BILLS

Senator Blaisdell offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 295-FN through HB 373-FN-A shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

HB 295-FN, Relative to the board of tax and land appeals. (Ways and Means)

HB 347-FN-A, Relative to the dental hygienist program at the New Hampshire technical institute and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 348-FN-A, Relative to the division for children and youth services and appropriating funds for certain employee benefits. (Interstate Cooperation)

HB 508, Authorizing transfers within a program appropriation unit of the department of health and human services. (Public Institutions, Health and Human Services)

HB 624, Relative to survivors' benefits of New Hampshire permanent firemen's retirement system members receiving disability retirement benefits. (Insurance)

HB 629-FN, Relative to the administration and investments of the New Hampshire retirement system. (Insurance)

HB 100-A, Making appropriations for capital improvements (Capital Budget)

HB 200-A, Making appropriations for capital improvements. (Capital Budget)

HB 263-FN-A, Establishing the arts development program and making an appropriation therefor. (Public Affairs)



HB 284-FN-A, Making an appropriation for a conference on day care. (Public Institutions, Health and Human Services)

HB 373-FN-A, Relative to family life education and making an appropriation therefor. (Public Institutions, Health and Human Services)

Recess.

Out of Recess.

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 7, 1987 at 1:00 p.m.

Adopted.

#### LATE SESSION

Senator Dupont moved that we adjourn.

Adopted.

*Tuesday, April 7, 1987*

Senate met at 1:00 p.m.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray Lord, these past few days have shown us the devastating strength and destructive power of Nature, when pitted against our own to control it! So it is in this Senate when we do not overcome the Needs!

Amen

Senator Disnard led the Pledge of Allegiance.

#### INTRODUCTION OF GUESTS

#### HOUSE MESSAGES

#### HOUSE CONCURS

SB 65, Repealing the authorization for a committee to investigate the confinement of children.

SB 57, Relative to change of name and address of a corporation.

SB 235-FN, Relative to municipal and county bonds.

### HOUSE CONCURS WITH SENATE AMENDMENTS

HB 40, Relative to bond given by administrators of estates.

HB 147-FN, Relative to sunset review of department of health and human services-division of mental health.

HB 151-FN, Relative to sunset review of veterans' home.

HB 116-FN, Relative to sunset review of funeral directors and embalmers board.

### NOTICE OF RECONSIDERATION

Senator Chandler served notice of reconsideration on SB 82-FN-A.

SB 82-FN-A, Relative to funding for the New Hampshire Veterans Resources/Counseling Center, and making an appropriation therefor.

### RESOLUTION

### COMMITTEE REPORTS

HB 79-A, Making a capital appropriation for Tip Top House. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 79-A provides for an appropriation of \$90,000 for the final phase of renovation for the Tip Top House on Mount Washington. What it does, the primary work is the handicapped walk to the Tip Top House and the inside work needing to be completed. The Committee recommends ought to pass.

Adopted. Ordered to Third Reading.

HB 377, To liquidate encumbrances and lapse available balances on certain capital accounts. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: This bill liquidates sums of money that have been left over from completed projects. The balance still remains on the treasurer's report is available. It came out of committee ought to pass.

Adopted. Ordered to Third Reading

HB 83-A, Relative to the Cornish-Windsor bridge and making an appropriation therefor. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: Everybody here probably knows the Cornish-Windsor covered bridge is probably the longest covered bridge in the world, at least in the United States. It's a bridge that has been badly in need of repair for great many years. I think it should be taken care of and preserved. It's one of the most valuable covered bridges of the State, which goes from Windsor, Vermont to Cornish, New Hampshire across the Connecticut River. The amendment is on page 12 & 13 of the calendar. It says that the sum of \$1,450,000 hereby appropriated at the Department of Transportation and that \$600,000 had been authorized, but that wasn't sufficient to do it, so they increased it. It says that the bidding shall be limited to contractors with demonstrated expertise in authentic restoration and rehabilitation of covered bridges. There is probably only one contractor in the State of New Hampshire that really knows how to build covered bridges and how to repair them. That is a fellow from Ashland, Mr. Graton. But there will be bids on it and anybody else by the Department of Transportation is deemed to be qualified who gets this bid. The recommendation by the Capital Budget Committee was unanimous ought to pass.

#### AMENDMENT TO HB 83-A

Amend the introductory paragraph of 1986, 203:15 as inserted by section 1 of the bill by replacing it with the following:

203:15 Bridge Restoration/Authentic Rehabilitation. The sum of \$1,450,000 is hereby appropriated to the department of transportation for the fiscal year ending June 30, 1987, for the purpose of the restoration/authentic rehabilitation of the Cornish-Windsor covered bridge on New Hampshire route 12-A over the Connecticut River. This appropriation shall be nonlapsing and in addition to any other appropriations for the department of transportation for the biennium. The department may accept funds from any other sources for this project and the appropriation shall be reduced by the amount of any such funds made available.

Amendment Adopted. Ordered to Third Reading.

HB 143-FN, Relative to sunset review of the department of fish and game law enforcement. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: Senate Development, Recreation & Environment Committee has held quite a bit of hearings in the last few days and we executed well on most of them. I say that, prefacing what I am going to say next. There is a HB 143, there is also a HB 142 that are both sunset reviews. The amendments that appear in your calendar, and I take responsibility for this because of the swiftness that we were dealing with bills, are inaccurate. I would ask that you would at this time vote no on the committee amendment, then I will offer a floor amendment that reflects the true desire of the committee. The committee met this morning on this and they are aware of what we are doing, and I have their concurrence. So, I would urge you to vote no on the amendment that appears in the calendar. Committee Amendment failed.

Senator Hounsell offered floor amendment

SENATOR HOUNSELL: The amendment that has been passed out to you, which is number 2368B is a floor amendment to HB 143-FN. This amendment strikes the language that the House committee put on in regards to establishing a report system for off highway recreation vehicles and other things. We felt that there was enough study going on elsewhere and there has been enough studies done that it did not necessitate further study. So, we urge your support on the amendment, which merely now reinstates the law enforcement division of fish and game.

#### FLOOR AMENDMENT TO HB 143-FN

Amend the bill by striking out all after section 2 and replacing it with the following:

3 Effective Date. This act shall take effect upon its passage.

Floor Amendment Adopted. Ordered to Third Reading.

HB 24, To extend the deadline for the joint committee on recodification of the water laws to submit its report to the General Court. Ought to Pass. Senator Hounsell for the Committee.

Senator Hounsell moved to recommit.

SENATOR HOUNSELL: This bill is rather an innocuous little bill that the committee thinks should pass. I believe eventually, we the Senate will do that. However, as late as today, we have been asked by Director Delbert Downing of Water Resources Council to add another innocuous measure. I believe that, probably his amendment that he would like to have us consider is that, but I would like to have the committee have its time to deliberate on it, so that we can make a better informed recommendation with this full body.

Adopted.

HB 95, Relative to hunting accidents. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: HB 95 relates to hunting accidents, which was requested by the Fish and Game Departments. It changes a standard from carelessly to negligently discharging of weapons. It authorizes the taking of a license away for a ten year period, a person who killed or wounded another person. You can find the amendment on page 13 of your calendar, which relates to abandoning a wounded or killed human being by a hunter. The amendment says, "who knowingly shall abandon someone". I urge your support.

#### AMENDMENT TO HB 95

Amend RSA 207:38 as inserted by section 3 of the bill by replacing it with the following:

207:38 Abandoning a Wounded or Killed Human Being. Any person who shall have shot and wounded or killed a human being shall forthwith render necessary assistance to the injured person and report immediately to the nearest conservation officer or law enforcement officer. Any person who knowingly fails to render such assistance shall be guilty of a class B felony and his license to hunt shall be revoked for life. The penalty for conviction under this section shall be in addition to any other penalty imposed by law.

Amendment Adopted. Ordered to Third Reading.

HB 61, Relative to the executive director setting the deer and bear seasons for taking. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: We in the Legislature do this every odd number year. We give them this power for two years and we recommend that we give them this power again for two years. This power that I am talking about is to allow the Executive Director of the



Department of Fish and Game to set the season to the methods and manner of taking bear, wild black bear and wild deer in the State of New Hampshire. We urge your support.

Adopted. Ordered to Third Reading.

HB 196, Establishing a study committee to determine the feasibility of establishing OHRV trails on rights of way of state highways. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: HB 196 establishes a study committee to determine the feasibility of establishing OHRV trails on rights of way on state highways. This is the result of recommendations of a previous committee and it calls for the report of the finding of the committee by December 1st of this year to the President of the Senate and the Speaker of the House respectively.

Adopted. Ordered to Third Reading

HB 47, Relative to certain fish and game licenses. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: HB 47 is also requested by the Fish and Game Department, as it effects the different licenses. It requires, for example, the taking of deer with the license number if the deer is to be transported by public carrier. It also addresses the taking of lobsters by traps and so other devices had heretofore been licensed, but just the taking of lobsters in any form was not. This also addresses the provisions for the taking of green crabs, a pesky creature of the deep, and regulation of how many may be taken per day.

Adopted. Ordered to Third Reading.

HB 192-FN-A, Establishing a program of regional and municipal assistance in the office of state planning. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: This bill establishes the program of regional and municipal assistance to coordinate state, local and regional planning relative to effective growth management and resource protection. The bill also requires the office of state planning to report to the Governor, the President of the Senate and the Speaker of the House on present state technical assistance programs on local growth management and ways to improve such programs and their delivery to local Governments. There is no

appropriation. David Scott in the Office of State Planning said that there will be money within the budget to begin gathering data. It has been a carefully worked out bill, he recommends that it pass. Oliver Nelson representing the New Hampshire Regional Planning Commissions approves the bill on behalf of the Commissions and believes the bill will provide a closer working relationship. It was also supported by the BIA. No one spoke in opposition and we urge your approval.

Adopted. Ordered to Third Reading.

HB 60-FN, Relative to indemnification of fish and game department volunteers. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This bill had a hearing with the House Committee Chairman, Representative Boucher in support and the Fish and Game Captain Mock who was also at the hearing and expressed their support. The bill provides exactly what the analysis says. Provides volunteers for forming the assigned duties of a search and rescue activities under the supervision of the Fish and Game Department, in the defense of the indemnification from civil law suits. It will enable the departments to get more value of the budget that they work with by allowing these assistants to help them. We have done this with one or two of the other agencies and it worked out well. The committee was unanimous in support of this bill. There was no testimony against the bill and we hope you support the committee report.

Adopted. Ordered to Third Reading.

HB 73-FN, Relative to falconry. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: I'm very happy to bring this bill before you and that the committee report is ought to pass. We held a hearing on this bill, there was no opposition, there was a lot of support. We had support from people of all kinds. We had people from the Science Center of New Hampshire, rehabilitated. People who came in and gave testimony about how the funds for reintroducing the peregrine falcon to New Hampshire is enhanced by programs such as this.

The history of this bill is kind of interesting and I just briefly want to go over it with you. In 1971 the Endangered Species Act gave to the states the authority to set the seasons and gave to the states the

right to set the falconry process. Falconers are a very, very responsible breed of sportsman and woman. There was a lot of concern when this first came about in the 1970's. In 1973 Maine adopted this. There was a lot of concern in Maine at the time, that everyone would be getting Falcon and going out and attacking the airways of the bird. In 1973 there were four Falconers, today there are 13. Again, these people are very responsible, they care for their animals in a very special way and they care for wild life in a special way. I'm very happy to be a sponsor on this bill. I'm very happy that the committee found favor of this bill. I would urge that the Senate would pass this bill onto the Governor for his signature.

SENATOR WHITE: Senator Hounsell, would you believe that I completely agree with you and that I was proud that you pronounced the Peregrine falcon correctly, because that's my husband's name?

SENATOR HOUNSELL: I will remember that. I'm very proud of the work that they have done in northern New Hampshire. I know Senator Bond and I are aware of those birds being reintroduced and I think a lot of that credit goes to legislators like yourself who support this and the Falconers who have proven themselves to be responsible.

Adopted. Ordered to Third Reading.

HB 38, Relative to the method of taking deer in the town of Madbury. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: We had a hearing on HB 38. What it does, is it adds to a list of contiguous Towns in Strafford County, those being Durham, Lee and now Madbury, that prohibits the taking of deer within that town by use of any firearm except a shotgun loaded with a single ball or loose buck shot, muzzleloaders or bow and arrow. There was a vote in the 1986 town meeting that had a unanimous support of this action. There was no opposition to it, the department spoke in favor of it and we feel that the Senate should adopt this.

Adopted. Ordered to Third Reading.

HB 142-FN, Relative to sunset review of the fish and game department administration and support. Ought to Pass with Amendment. Senator Freese for the Committee.

Senator Freese moved to recommit.

SENATOR FREESE: The committee would like to have this bill recommitted. There is a problem with the amendment; it was not as the committee voted. We would like to get this bill back to committee and we will send it right back in the next session.

Adopted.

HB 170-FN, Relative to sunset review of Merrimack River flood control commission. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This probably is the most golden bill of the session right now. Not only could you practically look out the window and see that we need to have a flood control commission on the Merrimack River, but New Hampshire pays into the commission, under the interstate compact, \$1,000 and we get back \$166,000. The purpose of both this compact and the compact after it on the Connecticut River flood control commission, was that after the 1936 flood we entered into an interstate compact with the states below us. We have the dams that protect their communities in our communities. So therefore, the towns in Massachusetts pay \$166,000 to the State of New Hampshire, to thirteen towns who have obviously lost some tax space because of the presence of the dams. So not only may we be grateful for the dams today, but we also may be grateful for the fact that there is some tax money coming back. So it is obvious that the sunset review of the Merrimack River flood control commission should pass.

#### AMENDMENT TO HB 170-FN

Amend section 1 of the bill by replacing it with the following:

1 Sunset; Merrimack River Flood Control Commission Renewed. Merrimack River flood control commission is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

HB 164-FN, Relative to sunset review of Connecticut River Valley flood control commission. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This also is a bill that I believe we should pass. New Hampshire gives \$1,000 into the interstate compact for the Connecticut River Valley flood control commission; we've re-

ceived \$11,000. The amendment, as on the other one, is to change the date to 1993, so that they don't have to do it in enrolled bills.

SENATOR WHITE: Senator McLane, in the past two biennial budgets, this has been left out of the budget. Have you checked to see that that money is in the budget?

SENATOR MCLANE: They are in the budget.

#### AMENDMENT TO HB 164-FN

Amend section 1 of the bill by replacing it with the following:

1 Sunset; Connecticut River Valley Flood Control Commission Renewed. Connecticut River Valley flood control commission, is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

HJR 1, Relative to the New Hampshire agricultural experiment station. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill is a resolution in support of the New Hampshire agricultural experiment station. Representative Campbell came in appearing in favor of the resolution. She pointed out the need in this centennial year of the New Hampshire agricultural experimental station, for the station. The need for the research that goes on in forestry and the need for the research that goes on in agriculture. She pointed out that personally they had been part of the whole herd buy-out. She and her husband, who have a farm in Salem, are looking to the university for help as they are going into the fruit and vegetable business. She had personal experience that the work of the agricultural experiment station was necessary.

Adopted. Ordered to Third Reading.

HB 31, Relative to boating on Wakondah Pond in the town of Moultonborough. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The committee held a hearing on this and no one appeared in opposition. I think it is important to state when we take a bill of this nature, to inform you that no one appeared in opposition because some of these measures to restrict the use of



ponds meet severe opposition. This is an important piece of legislation in that what it attempts to do and I think it will do, is it prohibit the internal combustion engines on Wakondah Pond. I have been told by someone who lives on the pond and also by the Clerk, which is in Senator Heath's district, that it is locally known as Round Pond. Now that we have identified the pond, we've also identified that there are loons on that pond and the protection of these loons we felt was very important. This does not get a heavy use of internal combustion; there is a certain amount of shallowness that prohibits the use.

There is an amendment in your calendar that refers to School Pond in Danbury, that has the full support of the selectmen. We have that in writing, also of Representative Felch. This pond is in my district and I do personally endorse this. I know the pond; it's not a pond that is easily opened to boat use anyways. This request came, by the way, from a developer. I think that it's interesting and we should note, that it was a developer who is asking to restrict the use of boats. That speaks well of developers, in this instance, because they show that they don't want to just throw up as many units as they can, but do it in the responsible manner. So the committee felt that it is important for us to pass the bill as it came to us and add School Pond. We hope that the Senate will concur.

#### AMENDMENT TO HB 31

Amend the title of the bill by replacing it with the following:

##### An Act

relative to boating on Wakondah Pond in the town  
of Moultonborough and School Pond  
in the town of Danbury.

Amend the bill by replacing all after the exacting clause with the following:

1 New Sections; Wakondah Pond. Amend RSA 486 by inserting after section 26 the following new sections:

486:27 Wakondah Pond. No person shall use or operate any power boat equipped with an internal combustion engine on the open waters of Wakondah Pond in the town of Moultonborough. Use of electric powered motors is authorized. Any person who violates the provisions of this section shall be guilty of a violation.

486:28 School Pond. No person shall use or operate any power boat equipped with an internal combustion engine on the open waters of School Pond in the town of Danbury. Use of electric powered motors is authorized. Any person who violates the provisions of this section shall be guilty of a violation.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

SENATOR HEATH: (Rule 44) This weekend I spent time in the Holderness area of my district and over in the Ossipee area. As many of you are experiencing in your district, we have tremendous flood problems and water displacement of people. I just rise on this occasion to officially, or at least publicly, to express my gratitude to the state agencies, particularly civil defense and water supply, which came in and have been testing wells. In addition to those groups, the Red Cross which has done a terrific job in accessing in making instant cash available to people who have been devastated and a huge neighborly group in both towns who have done everything from pulling people out of their homes at risk of their own lives, the church in Plymouth that has the community closet who has supplied food and clothing, and enormous manhours of Plymouth State College which made available all of its resources to help its neighbors in the Plymouth and Holderness area. I think that all of you who have had this problem are as indebted as I am to these agencies, individuals and private groups that have done this. I would just like it to be on the record that we appreciate it, at least in my district.

Adopted.

HB 113-FN, Establishing a civil air patrol grant program. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: The Executive Departments Committee heard this bill last week. Basically, I'll explain to you a little bit of what aeronautics involvement would be with the civil air patrol. Under the present situation the state provides services to the civil air patrol. They are employees that work for the state but are responsible to the civil air patrol, which has caused a considerable amount of problems for them. Basically, what is proposed under this bill is a grant to allow the civil air patrol to handle their own administration, rather than having the state help them in providing the services that

they do provide. It is a sunset bill and it sunsets the civil air patrol as we presently know it. It reestablishes it again under this grant program.

Adopted. Ordered to Third Reading.

HB 26-FN-A, An act making an appropriation for the New Hampshire Bicentennial commission on the United States Constitution. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: HB 26-FN-A appropriates \$150,000 to the New Hampshire Bicentennial commission on the United States Constitution for the purposes of enabling the commission to prepare an appropriate commemoration of this historic event. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

HB 269-FN-A, Relative to the appropriation for motor vehicle replacement. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: This bill appropriates \$50,000 for the replacement of motor vehicles from now through the end of the fiscal year on June 30. It is a lapsing appropriation. The fund is depleted as of this day. Yesterday, in the Fiscal Committee there were three request for motor vehicles which were tabled. This appropriation allows us to get through the biennium. There are always incidents through automobile accidents, or some instances where the state fleet of vehicles are sold and they can no longer operate. It will allow for those few emergency situations where vehicles need to be replaced to take place in the next two months. The committee recommends ought to pass.

SENATOR JOHNSON: Senator Hough, it seems to me in the past, the state vehicles were all painted the same color, now I see a wide variety of colors. My question is, are there any rules or guidance for state agencies in regard to the color of state owned vehicles?

SENATOR HOUGH: I can't answer that question. Senator Torr, I believe, would be responsible for the color of vehicles and I will defer to Senator Torr. The following issues has no bearing on the emergency on the need for this bill to allow the funds to replace vehicles. It just happens to replace them in the next two months. The answer to your question will have to be imported from bills in the rules.

Adopted. Ordered to Third Reading.

HB 371-FN-A, Relative to the compromise of an action against the state and making an appropriation therefor. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: This bill, not unlike other bills that have appeared before both the Appropriation and the Finance Committee are a result of an occurrence wherein the state, for all intents and purposes, is liable for an injury. It is a more prudent action based on advice from the Attorney General's office to make these awards rather than allowing these cases to go to court, wherein they indicate most likely we would lose anyway. This is what this bill does, it places the state in a position of honoring an obligation or a case that has been negotiated as opposed to going to trial.

Adopted. Ordered to Third Reading.

HB 30-FN-A, Relative to uniform allowance for newly commissioned second lieutenants and warrant officers in the New Hampshire national guard and making an appropriation therefor, Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Senate Internal Affairs Committee met on HB 30-FN-A. What this does, is it allows the warrant officers and those individuals who become warrant officer in the national guard, \$100 for a way to defray the cost of their new uniforms and become a warrant officer. It's estimated that that cost is around \$500 when they get the new uniforms. This is, I suspect, a small token of our appreciation for those individuals taking on more responsibilities.

Adopted. Referred to Finance under Rule 24.

HB 522, Relative to membership of the state party convention. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This bill adds to the list of those individuals that can be voting members of their state party convention, both republican and democratic nominees for the U.S. Senator and Representative and those currently inhabiting those offices.

Adopted. Ordered to Third Reading.

HB 482, Relative to the charter of Wentworth-Douglass Hospital. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: This was introduced by Representative Torr of Strafford district 6 and Senator Torr of district 21. Basically what it does, the Wentworth-Douglass Hospital has a unique situation in

that it has a charter that is different from most hospitals. What this basically allows them to do is affiliate with another hospital if they so desire. I'm reporting the bill out because their parking lot is in Rollinsford, which is part of my district.

Adopted. Ordered to Third Reading.

#### TAKEN FROM THE TABLE

Senator Podles moved to take SB 1-A from the table.

SB 1-A, An act establishing the New Hampshire land conservation investment program and making an appropriation therefor.

Adopted.

Senator Podles offered floor amendment.

SENATOR PODLES: I have a floor amendment to SB 1-A. The amendment appropriates \$20 million for the biennium ending June 30, 1989 for the purpose of the trust fund, the land trust. This is to be transferred from the surplus account.

The \$20 million dollars I think, is a very reasonable amount, it's a sensible approach. As you can see, there are 21 Senators that are supporting this amendment and I would like to make it clear that the land trust was never an issue. The issue was the \$15 million appropriation in the beginning. I would also like to urge the other three Senators that don't have their names on this amendment to also support the amendment. I think that it deserves your support. It is something that is very important for the State of New Hampshire. It's an opportunity to buy this land and if in the future there is an opportunity to buy more, and there isn't sufficient funds they can always come back in another session, we're here every year and that wouldn't be such a difficult thing to do. I urge your support.

SENATOR HOUNSELL: Senator Podles, I am a co-sponsor and very happy to be so, but just to make it understood, future funding will have to come through future legislative action?

SENATOR PODLES: Yes.

SENATOR WHITE: I rise in strong support of SB 1 and the amendment that is before us, as I have done before. I unfortunately would have preferred to have been in Senator Heath's position, listening to



flood problems, rather than a trumped up charge over the weekend that I was against the land trust. I have never been against the land trust, I have always supported it and probably I supported it to the highest dollar figure of anyone in here. I was on record last Thursday of supporting \$25 and \$30 million dollars. Yet, my constituents, the same as the rest of the blackballed people were indicated that we were opposed to the land trust. When I spoke with the lobbyists in the hall, they asked that we not take the bill off the table because they wanted to go home. I said, well I don't think it probably will come off the table, but if we were not taking it off the table I would hope that you would lay low. They agreed to lay low and I agreed to leave the bill on the table. Perhaps, that was my error. Perhaps we should have just taken it off the table and been done with it last Thursday. I think we had the same votes Thursday, that we have today and we all agreed to it. It was unfortunate but we left it on the table. So, we stuck to our end of the bargain, they didn't stick to their end of the bargain that they made with me, that they would let it lie until this week and I think it's unfortunate. It's a good bill. The time has come, in my area the land is going very rapidly as it is in other areas of the state. I think we have the money and this is the way it should be spent. I have said this over and over again and I just think it is unfortunate the way it is being done. I think it should have been done last Thursday, it had been clean. Now we face the problem of it not getting over to the House, so that they can recommit it. I think it is very regrettable that it wasn't passed Thursday, but that was the decision of this body. I would hope in the future that we have a little Senatorial courtesy, that we don't have another barrage of phone calls on the weekend. I'm only home two days and I try and get stuff done for my husband. We do have a gun shop, I do do the books. That was the weekend that I did the month end work at the gun shop and I resented that every time I started doing something, I had to drop it and go answer the phone, especially since I support the land trust. I support the bill, I support the amendment and I hope we can act on it favorably today. Obviously we can, there are 21 supporters of the bill and the amendment, so I suppose we better get on with it.

SENATOR ST. JEAN: As not being part of the gang of 21 Senators; myself, Senators Chandler and Preston obviously are against this piece of legislation and the amendment to which I am going to speak.

Last week it was alluded by my good friend Senator Hough, that I get out from district 20 and look around the State of New Hampshire. Well, I did that this weekend. I got out around the seacoast area and up a little bit and about.

I do have some suggestions for the land trust, on how this money can best be spent. You may think that I stand here unjust, but I really don't. I would first suggest an area that you are somewhat familiar with, Senator Hough. Perhaps we should put some money to purchase some land up in the Northeast Kingdom of Vermont. It's an area that currently isn't being used. I think that it's an area that should certainly be looked into. Another area that I think that those involved with the land trust should be looking at, is an area around Kittery Point, perhaps up to York Beach, Maine. What this would do, is it would allow the business profits tax to continue and the real estate transfer tax to continue to be increased, which would allow the surplus to be continued. With the way that the individuals behind the land trust have lobbied this particular piece of legislation, perhaps in a forward manner and in a forward thinking that I intend to do, we could purchase other pieces of property in other areas. I think this is extremely important. Perhaps as time goes on, after two years or perhaps five or six years down the road with the continued surplus, we could look to areas like Newburyport, Massachusetts perhaps down where the reserve is, in that area. I suspect the crowning jewel of this could be a piece of property that was on the market not too long ago, Martha's Vineyard. We have a mooring problem in this state, and I think that is extremely important. I think it's nice to see the Boston Globe coming into this state now and I think it's nice that we return the favor. Perhaps we could pick up a couple of parcels down there.

All kidding aside, the legacy that we leave to our children is very very important. At a time in 1987, we are discussing the wisdom of having in kindergartens in this state, we can leave our children perhaps 40 miles of coast line, by requiring from York Beach, Maine down to Newburyport, Massachusetts. In a time when 85,000 people have absolutely no insurance in this state and another 75,000 people are only insured part time, we can have land in the Northeast Kingdom of Vermont. Clearly, at a time when the field house at UNH is in such disrepair, that individuals or athletes coming over to UNH are not taken through the field house, we certainly can have the crown jewel, Martha's Vineyard. So I think there is a legacy to be

left here and let us not forget, perhaps we could even have some federal funding for this project, through our Congressman Judd Gregg.

I think that you should look and take into account what I said here today, because the legacy that we leave here today by spending \$20 million for the land trust, is a sad commentary on our priorities.

SENATOR PRESTON: The amount of sponsors on this amendment makes it a very clear message that I am of the opinion that the majority of votes exist with this amendment. I am frankly not ashamed at all to be a member of the terrible three, of which Senator Podles is seeking our support on this piece of legislation, I happen to be a sponsor of the land trust bill. I've never been afraid to be alone, Senator Podles, and when the oil tracks were well greased several sessions ago for the Unified Court Bill, I said it was going to be the most expensive thing that we voted on in the last few sessions and it was. The last session when everyone did what they were told when the Governor said to vote for this settlement bill, there was one lone Senator from the seacoast who stood up and said, "this is a big bucket of worms," and everyone came in so meekly, the first bill of the session and said that one guy was right. I'm not often right, but I have a gut feeling on this one that it isn't our biggest priority, It's a great idea and I think it should pass. But for you to grab \$20 million now and say this is our biggest priority, particularly coming from Manchester, areas like that where the situation that I pointed out the other day is so terrible regarding sewage and so forth. I hope that this bill is held in committee of conference. I don't want to use the vernacular, but it's not a joe six pack bill, it's a champagne and cheese bill. There are other demands, I think, that fit the average citizen much better, be it clean water, hazardous waste or addressing, as I said, before removing the asbestos from buildings or building a field house for the youngsters of this State. If there is any Senator in this room that knows better than I, they would use the 20 million extra bucks to address this first, over the things I've mentioned, then you should be prophets not Senators.

#### FLOOR AMENDMENT TO SB 1-A

Amend the bill by replacing section 3 with the following:

3 Appropriation. The sum of \$20,000,000 is appropriated for the biennium ending June 30, 1989, for the purposes of this act. Said sum shall be appropriated from any funds transferred to the general fund surplus account established under RSA 9:13-e,V.

Floor Amendment Adopted. Ordered to Third Reading.

SENATOR JOHNSON: (Rule 44) This is probably one of the few times that I have risen to speak in regard to Rule 44, to exercise my privilege under Rule 44. I'll tell you at the outset that what I am talking about is a letter that went out over the weekend from the Trust for New Hampshire lands. I think we all recognize that part of our responsibility as State Senators has to do with lobbying. We receive telephone calls, we receive letters, we all understand that that is part of being a State Senator. As I talked with the people who called me over the weekend, the first several ones I just simply listened to them and explained what happened and really didn't ask too many questions. But on several occasions I asked a few questions to try to understand who and what was behind this effort. That's when I found out it was the Trust for New Hampshire lands. Then I began to ask, what is in this letter? I was told that there were the names of 8 Senators, singled out for telephone calls over this weekend. Any number of the people who talked to me were lead to believe by the letter in question that I and the other 7 Senators who were identified, targeted if you will, had voted against the land trust bill, SB 1-A. When in fact we all know that that is not the case. Then when I found out that there were only 8 names instead of 13 I raised the question, what about the other 5 Senators who voted against the Senate Finance committee amendment for \$50 million dollars? A couple of people said that they wondered that themselves. Well, I too wondered that and I am still wondering that. So, yesterday around noon time I called over to the Trust for New Hampshire land to try to find out who was behind this effort. After having about 5-6 minutes of double talk by the person, she finally admitted that she was just doing what "they told me to do". I then asked, who are they? And that turned out to be, according to this person, Steven Blackmer. I made an attempt to contact that person unsuccessfully. Later on that same afternoon, yesterday, I had my secretary call back over to that number and ask on my behalf for an explanation of the purpose of that letter and also for a copy of the letter in question. I further asked if that could be delivered to me by 12:00 today so that I would have an opportunity to see that myself. For your information, a copy of that letter has yet to be forth coming and I was told that oh no we're not going to give you any explanation for that. Well, I submit to this body that that behavior was inappropriate, that behavior was unfair, that behavior was deceptive and in addition to the people that called me over the weekend, or whatever it was, the past several days, and I don't have any quarrel with them certainly, but just this morning a representative from my district stopped me in



the hall and said, "I understand you voted to kill the land trust amendment." That I voted to kill that land trust bill, well clearly that's not the case, but clearly that is what this person was lead to believe by the receipt of this particular letter. I think that, this is my own personal feeling right now, is that by taking the action that we are taking here without getting a public apology for the perpetrators of that deceptive letter, if we go forward and allow what's going to happen that is a reinforcement by this body of that deceptive, inappropriate and unfair behavior. So we will be, by our actions, reinforcing the lobbyists and I think that it will be another example of how this body seems to be subject to the inordinate influence by a lot of people wearing orange badges. It puts me in a difficult and awkward position, I am obviously going to vote for this amendment. I support it today and I would have supported a similar amendment last Thursday, as would virtually at least 22 members of this Senate. That I know of and I will support the amendment but I would like to at least plant the notion after we pass this, to lay this issue back on the table and wait and I think this Senate deserves an apology from the perpetrators of that deceptive, unfair, inappropriate lobbying effort and I hope that the Senate will think about that after we have passed this amendment. Thank you.

### RECONSIDERATION

Senator Chandler moved reconsideration on SB 82, Relative to funding for the New Hampshire Veterans Resources/Counseling Center, and making an appropriation therefor.

SENATOR CHANDLER: The reason why I make this motion to reconsider SB 82 is that I believe when we voted in favor of it, seeing it was a veterans bill, I think most everybody thought that it was something that the veterans really wanted. I know I did myself so that's why I voted for the bill. Now I have received information that that was not the case. I hope that we will vote to reconsider it and give us a chance to explain it.

Adopted.

Senator Chandler moved Inexpedient to Legislate.

SENATOR CHANDLER: As I said before, this bill passed the Senate with a considerable majority because we were under the impression that being a veterans bill that it was something the veterans wanted. Now I find out that actually most of the veterans organizations in the state, the heads of them, have presented us with this



letter, I guess that most everybody has. A little bit of history on this, from my own recollection, of how this came about was that several sessions ago when a lot of the Vietnam veterans were having problems of trauma from having served in Vietnam and in civilian life. They were having problems adjusting to civilian life, alcohol, drugs, nerves and with everything else. They don't seem to be taken care of the way veterans from other wars were. So a move was made in the legislature, the House and the Senate to try to do something to help the Vietnam Veterans. I remember that Chris Spirou made quite a big thing out of it. He was one of the prime pushers for this bill to help out the Vietnam Veterans. A law was passed to provide them aid, comfort and assistance in various areas if they needed it. The next session, or a couple of sessions after, it was expanded to include all veterans, not just Vietnam veterans. Now it seems that the federal government is doing things to help the veterans. What this bill would continue is a kind of a duplication of effort. Federal Government doing it, the State doing it and they feel that it is really not necessary, so all the veterans organizations in the State or most all of them, feel that it should be done away with. That's the reason why I feel that the veterans organizations don't want it, I don't think it should be forced upon them. I hope the Senate would change their views and vote this bill inexpedient to legislate.

SENATOR HOUGH: I rise in support of Senator Chandler's motion, which is the motion and the resolution of this piece of legislation as was offered last week by your Committee on Finance. As I indicated last week in making the report on behalf of the committee, that the committee had initially agreed to support this piece of legislation, but there was a question as to this program and we made an inquiry of the State Veterans Needs Committee and their representative. Their representative came to the committee and provided us with the same packet of information that the policy committee had had prior to their public hearing on this legislation. After reviewing and discussing this amongst the committee, it was our determination to reconsider our action based on the better information that we had received and we recommended then to report the bill inexpedient. I would not stand here and support any piece of legislation that was harmful to the Veteran community and I think that each and every-one of you in this room will recognize that I wouldn't do that, then you also recognize that I have a concern for the veterans and more specifically for the veterans of the Vietnam War.

Our report was our best judgement in the Committee of Finance. There have been indications that Senators Bond, Hounsell and

Heath, being Senators from the North Country, want this for their district. I would also like to indicate to you that there is a goodly area of the north country that is identified in the fifth Senatorial district. When it comes to legislation for the north country, I am included with Senators Bond, Hounsell and Heath, because the interests of my district are similar to the interests of their districts. We generally pride ourselves in thinking in terms of Grafton, Coos and Carrol Counties. The fact that I do not support this legislation cannot be construed that I am against an attempt by Senator Heath to support an organization in his district.

I will tell you, as Senator Chandler has indicated, that as a result of the Vietnam Veterans bonus program there was an attempt to establish by the legislation a Veterans Need Committee. There are members of this legislature, notably Colonel Benton, Mr. Houl and representatives of all the various veterans organization, who served voluntarily on this committee to try to assess what would be a meaningful recognition of service. There were requests that were approved by this committee and submitted to the Fiscal Committee to allow for outreach programs to assist the veterans community. Assist in a more humane, meaningful and memorial way, than erecting a marker or a statue. This involved a total cooperation of the veterans community, working hand in hand with the State, and working hand in hand with each other across the State, to try to identify those areas which would best respond to the unusual needs in the veterans community. There had been, as the information in front of you would indicate, grants to a counseling service in the north country. There had been, if my memory serves me correctly, repeated fiscal committee action where further approval for this grant to this organization was made. Time came when the funds available had been allocated. The time also came when the counseling center in question came out from the umbrella of the Northern Community Mental Health Association.

Given this information and, if you will, a second look by your Committee on Finance, it was our determination that this legislation should be reported as inexpedient. That is the position of your Committee on Finance, it is a position that I support and continue to support. This in no way is a dispute between Senators Heath and Hough. I am only making the report as I was requested to by the Committee of Finance. There are seven other members who could have made this report. So personalities in this room are not part of the issue. It is an assessment of the best information we have available and your Committee's judgement therein. Thank You.

SENATOR HOUSNELL: Senator Hough, I appreciate your comments. We have had discussions since our vote the other day. You have raised some concerns, I think, that has led to reconsideration. But I still have to think about people that I have met, people who are not located close to the White River Junction facility, but may be farther away from that in the north country. People who have in the past been served by this. It has been suggested that this program is kind of independent and somebody would go so far to say that it might even be a response. I don't know that, I do know that in the past this program, in my estimation, has done some good. Whether it works within the framework, whether not the director has professional credentials or the conduct of its staff is appropriate to other agencies. In my mind, it has not been established. What has been established however, is that certain leaders of the veterans community, representing honorable and well recognized organizations, have all signed a letter objecting to this. I think that does raise some concerns and I think that it would be unfortunate if anyone was in the position of having to support this, may be labeled by anyone in this State as being anti-veteran. Just as I think that anyone who does vote against this, should not be labeled anti-veteran. I know the members of the Senate in here to be concerned for various organizations and definitely recognize the work of the veterans in this state. I know I do. I remember listening to Senator Boyer when he was here and how he was very cognizant of their needs. I am aware of their needs, I would like to have this bill recommitted. I was thinking of a motion of recommitting this to Public Affairs, but the deadline's coming up and it couldn't be given the hearing that I think it deserves.

I do hope that the claim that the duplication of effort is reason to stop this program. It is with reluctance that I will be voting inexpedient to legislate. Not because I feel that I've abandoned the Vietnam Veterans or that I'm not aware of them, but because it may help other members of this body to realize that the day has gone by for this organization and you may be a little bit more comfortable voting on this next vote.

SENATOR DISNARD: I noticed this petition has been signed by members of several organizations. One military order of the purple heart; I wish the Veterans upstairs to know I am a holder of the purple heart. It was signed by the commander of the American Legion, I'm a member of the American Legion. It is signed by members of the Veterans of Foreign Wars, I'm a combat veteran of WWII and Korea, I shouldn't mention it again. I have a dilemma. When I

hear that my fellow veterans in the north country far away from the White River Junction and the three Senators further north and Senator Hough, are really concerned that they aren't getting the benefits they deserve then I have a problem on behalf of these veterans. I would hope that this Senate today does not override the vote of the last time and if three of my fellow Senators say that their veterans are concerned, then on behalf of those veterans and a veteran myself, I am concerned. So I feel I may speak and I'm not speaking against my fellow members of these organizations, because I'm one of you. I'm speaking in favor of the veterans that I hear are unable to get help. They remind me also, and I meet some of these people when I go fishing in the north country, that they have to wait a long time to get into the White River Junction and they're really concerned now because of the anticipated cutbacks in the Veterans Administration. I would really hope that you people would give second thoughts of this and really not overturn it.

We have heard Senator Hough say, "the Finance Committee is recommending this," I call it to your attention, what was the recommendation of the committee who first heard it?

SENATOR WHITE: Senator Disnard, would you agree that if we do pass it the way we did it before, since it is a Senate bill that it will have another proper hearing in the House and that it can be addressed at that time?

SENATOR DISNARD: Yes.

Adopted.

### COMMITTEE REPORTS

HB 479, Relative to delaying condominium conversions following certain rental increases. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: HB 479 is recommended without amendment for your approval. There has been an abuse that has taken place in Mariners Village in Portsmouth and as a potential threat in other housing situations that are being developed to condominiums. In order to circumvent the law, it is possible to double the rents in a conversion property and thereby drive out the tenants and circumvent the time permitted by statute for them to find other housing. It is the opinion of the committee that this bill, as it stands, in no way deprives the property owner of any right, it provides for any in-

creases in rentals that would be caused by increased costs of operation, but any increases in rent are limited to those increased cost in operation.

SENATOR PRESTON: Senator Bond, did you say that this doesn't deprive property owners of any of their rights?

SENATOR BOND: That is correct.

SENATOR PRESTON: Does it prevent the owner from making application for condominium conversions for any time period?

SENATOR BOND: It does not deprive anybody if he adheres to the present statute which provides for a time for the existing tenants to find other housing. The statute is specific about how much time you have, after you announce your conversion. The purpose of this bill is to prevent this circumvention of that statute, which is caused by taking elderly people and doubling their rents beyond their means to pay, so that they have to move quicker than the law allows them.

SENATOR PRESTON: Does it deprive the landowner or the property owner or a right to make application for condominium conversion within twelve months after the increase?

SENATOR BOND: It delays the application for twelve months, if he violates the intent of the law by doubling rents or increasing rents to force out tenants. Then that automatically prevents his making application for the following twelve months.

SENATOR HOUNSELL: Senator Bond, a hypothetical question so that I can have this straight in my mind. If I own and held a project that had tenants and I wanted to convert to condominiums and I was in compliance in every way, but before I made the decision to go to condominium, four months prior to that I had a rent increase, does that require that I have to wait an additional twelve months?

SENATOR BOND: It could if they exceeded the reasonable amounts.

SENATOR HOUNSELL: If I was in the same situation and I had the rent increase, but I sold my project to Senator Preston and Senator Preston came in and now the owner of record, but the tenants had just been hit with an increase within four months, would he then have to wait twelve months before he could convert?

SENATOR BOND: I can't give you a certain answer on that.



SENATOR HOUNSELL: Thank you.

SENATOR DUPONT: Senator Bond, our first conversation about this bill earlier, determining about what is reasonable in terms of the rent increase, who makes that determination?

SENATOR BOND: It addresses the actual cost in an increase operation.

SENATOR DUPONT: I ask along the same lines as Senator Hounsell, I think that what you said was you weren't sure of whether or not if somebody sells the building that has had a rent increase, would that not be allowed to convert that building to condominiums, is that correct?

SENATOR BOND: I wouldn't want to make an answer or statement for the record.

SENATOR DUPONT: Thank you.

Senator White moved to recommit.

Adopted.

HB 670-FN, Relative to wood-fired electrical generating plants. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: If you will refer to page 17 of calendar #27, you will find the amendment to HB 670. The amendment establishes a study committee. It became apparent after the bill passed the House, to the sponsor of the bill and to the state forester, that there needed to be questions answered before actual legislation was generated. This bill establishes a committee of the state forester and a number of others as the Granite State Chapter of the American Society of Foresters, Timberland Owners Association and others to determine the problem and the best way of addressing the problem of wood consumption relative to wood burning electrical generating plants.

SENATOR HOUNSELL: Not being a member of that committee, but being very much aware and concerned about all the implications of biomass energy produced from wood, I stand in concert with Senator Bond and thank the committee for this type of amendment.

#### AMENDMENT TO HB 670-FN

Amend the title of the bill by replacing it with the following:

## An Act

establishing a committee to study matters relative  
to biomass energy facilities.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee; Established. There is hereby established a study committee which shall examine means of regulating and supervising wood harvesting practices associated with biomass energy facilities.

2 Membership; Compensation.

I. The committee shall consist of the following 7 members:

(a) The state forester or his designee, who shall serve as chairman of the committee.

(b) A representative of the Granite State Chapter of the Society of American Foresters.

(c) A representative of the New Hampshire Timberland Owners Association.

(d) Two representatives from the biomass energy industry in this state, who shall be appointed by the state forester.

(e) One public member appointed by the speaker of the house of representatives.

(f) One public member appointed by the senate president.

II. The members of the committee shall receive no compensation for their services.

3 Authority; Report.

I. Each department, agency, commission, and official of the state, and of any political subdivision of the state, shall provide the committee with any information and assistance such committee may deem necessary.

II. The committee shall submit a report, including proposed legislation, to the speaker of the house of representatives and the president of the senate on or before October 1, 1987. Such report shall include recommendations concerning areas in which the division of forests and lands, department of resources and economic development, shall exercise statutory authority.

4 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 97-FN-A, Appropriating funds to the Department of Agriculture for inspection of apiaries. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: On this historic occasion, first of all I would like to thank the secretary pro tem, Honey, that came in and single-handedly helped our committee on this bill. People swarmed into this hearing. The committee listened to testimony that droaned on and on. We combed through the evidence and concluded that a sting operation by the House last year killed this very same piece of legislation. We decided not to brood over that sticky situation. We heard some testimony about some diseased queens from California that were bringing their diseases into this state and we heard testimony about the killer bee. I'm here to tell you that that is a serious situation. Yesterday in Sandwich, I found something that had gotten into my brief case and it was a killer bee as I understand it. So anyway, we think there is a serious danger to our bees and that this is a honey of a piece of legislation. We urge you to bear with the committee report.

SENATOR WHITE: Senator Heath, would you agree that we really did have a good bill last time, but to elaborate on your fine dissertation, that it got combined with hordes of other bills and was swamped at the end of the session?

SENATOR HEATH: Yes, there was a lot buzzing about that at the hearing, too.

SENATOR WHITE: Amongst the people that testified, and there were a great number of people, is it really true that Mohammed Ali testified to that bill?

SENATOR HEATH: I don't know, but he's been known to fly like a butterfly and sting like a bee. But William Shakespeare, in his testimony was "to bee or not to bee", which we thought was quite an honor.

SENATOR WHITE: So you think that it's a sweet bill and we should pass it on.

SENATOR HEATH: It's a honey of a bill and I hope that we will pass it.

Adopted. Referred to Finance under Rule 24.

Senator Blaisdell moved to waive Rule 24.

Adopted. Ordered to Third Reading.

HB 435-FN, Creating a committee to study head injuries in New Hampshire. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: You will find the amendment on page 15 and 16 of calendar #27. Basically, what we have allowed, is that members of the Senate could have a designee on that committee. We feel that the Senate is quite busy and at times it would be handy to have a designee. Also, we have put in for two public members, one of whom would be a primary consumer or a family member of the primary consumer that has had the head injury. We had a young fellow in that testified and we felt that he had a lot that he could offer to the committee. He had been in an auto accident and I think anyone that has had a head injury is best to be on that committee.

The second part of the amendment deals with an Insurance Fund Advisory Council and that was brought in by Representative Pappas. Unfortunately, in the House that committee was so busy and time constrained, that they didn't really clean up any of their bills. So you're going to find that we will be having a lot of amendments coming out of our committee, cleaning up the bill at the request of the original committee, because they didn't have time to work on it. So this is a committee amendment that was originally a bill that time constraint didn't allow them to do it. The only thing that we did was to take out the appropriation because we didn't want to harm the first part of the bill.

#### AMENDMENT TO HB 435-FN

Amend the title of the bill by replacing it with the following:

An Act

creating a committee to study head injuries  
in New Hampshire and relative to  
health care for indigent.

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. The members of the committee shall be:

(a) One member of the house of representatives or a designee, appointed by the speaker of the house.

(b) One member of the senate or a designee, appointed by the president of the senate.

(c) One member from the governor's commission on the handicapped.

(d) The director of the division of vocational rehabilitation or his designee.

(e) Three non-legislative persons whose work involves the treatment of head injuries, appointed by the governor.

(f) The director of mental health and developmental services or his designee.

(g) Two public members one of whom shall be a primary consumer or a family member of a primary consumer, appointed by the governor.

Amend the bill by replacing section 3 with the following:

3 Report. The committee shall submit its findings together with its recommendations for legislation in the form of a report to the governor; the speaker of the house of representatives, and the president of the senate no later than December 1, 1988. Such report shall contain all testimony and information presented to the committee and shall be available to the public.

Amend the bill by replacing section 5 with the following:

5 Insurance Trust Fund Advisory Council; Findings; Intent. The general court finds that the inability of the indigent to obtain adequate health care necessitates the creation and implementation of a new program which would supplement the coverage provided by Medicare and Medicaid. The objectives of such program would be to provide for a method of preserving the dignity of the growing elderly population which lacks sufficient means to pay for nursing home or home health care and to ease the financial burden caused by catastrophic health services.

6 Insurance Trust Fund Advisory Council; Establishment.

I. There is established an insurance trust fund advisory council which shall consist of the following 10 members:

(a) Six members who shall be appointed by the governor and council. Five of such members shall be from the general public and one shall represent business and industry. The governor and council shall designate one such member to be the chairman of the insurance trust fund advisory council.

(b) The commissioner of insurance or his designated representative.



(c) The commissioner of health and human services or his designated representative.

(d) A representative or a designee appointed by the speaker of the house of representatives.

(e) A senator or a designee appointed by the president of the senate.

II. Members of the commission shall serve without compensation; provided however, that the legislative members shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The department of health and human services shall provide technical and staff support to the insurance trust fund advisory council.

7 Duties of Council. The council shall:

I. Evaluate various programs which would accomplish the objectives of this act. Such evaluation shall include consideration of:

(a) The number of indigent people covered.

(b) The extent of such coverage.

(c) The premium costs.

(d) The projected costs of administration.

II. Explore the feasibility of an insurance trust fund program which would provide health care coverage to the indigent.

III. Submit a report detailing its findings to the governor and council, senate president, and speaker of the house on or before December 1, 1988. Such report shall contain any proposed legislation which the council believes would further the purposes of this act.

8 Appointments. The appointments to the insurance trust fund advisory council under section 6 of this act shall be made within 60 days of the effective date of this act.

9 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Ordered to Third Reading.

HB 541-FN, Relative to developmentally disabled persons. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: HB 541 changes the terminology replacing developmental impairment and developmental impairments and impaired to conform with the language used in the federal law. Part of it, line 16 on the first page actually deals with a court case which the state was involved in and the Department of Mental Health requested that this change be made. The only change in the amend-

ment, which you will find on page 16, is indicated on line 1 of page 2 and that says that when an individual attains age 22. We would urge your support of this bill.

#### AMENDMENT TO HB 541-FN

Amend RSA 171-A:2, V(b) as inserted by section 3 of the bill be replacing it with the following:

(b) which originates before such individual attains age 22, has continued or can be expected to continue indefinitely, and constitutes a severe handicap to such individual's ability to function normally in society.

Amendment Adopted. Ordered to Third Reading.

HB 726, Relative to qualifications of the director of human services and establishing certain positions. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: Basically, this bill is here because of the change that we had over in the Department of Health and Human Services. Since we no longer have the state council on aging, they have established a position in the Division of Elderly and Adult Services to take care of that particular position and that person's name is Tom Prior. So, basically this bill grandfathers that position into this division.

SENATOR DUPONT: There is no fiscal note on this. Is it because the person presently over there on salary?

SENATOR WHITE: That's right. It's just a transfer from S.C.O.A over to this division.

Adopted. Ordered to Third Reading.

HB 545, Establishing a task force on homelessness. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: We learned in committee that homelessness has increased 20% in New Hampshire since the first of the year. Statistics are needed to address this problem because there is a growing number of children and families living on the streets. This bill will research the reasons for this increase in homelessness through the establishment of a study committee, which will make

recommendations to solve the problem. John Wallace from the Department of Health and Human Services represented Commissioner Mary Mongan and called this bill a very significant measure, and said that a coordinated response is needed. The Task Force will define where New Hampshire is in terms of homelessness in order to determine what will be necessary in the way of services. We've added two amendments. The first one would provide for designees for House and Senate members to the Task Force. Secondly, it's a housekeeping measure. We've clarified that it will be one of the members of the committee that will be the Commissioner of Health & Human Services. It was incorrectly written in the bill as the Director of the Division of Human Services. I would urge your adoption.

SENATOR MCLANE: I just want to take a moment to recognize the first sponsor of this bill, who is a man named Mark Manus from Concord. He probably knows more about the homeless in New Hampshire than anyone else in this state, because he has been working in the last seven or eight years dealing with that problem here in Concord. He has organized what we have known as the Christmas food basket program and there are now over 10,000 recipients of help at Christmas time from the merchants in Concord. If you have never met Mark Manus, he is a man of good size with crutches, from the House. He is a very unusual person. As I said in the hearing on this bill, I would hope that if there was anyone named to this study of the homeless, it would be Mark Manus. So, I would just like that to be in the Senate record.

#### AMENDMENT TO HB 545

Amend the bill by replacing section 2 with the following:

2 Task Force Established. There is hereby established an advisory task force on homelessness consisting of 7 members: 2 representatives or their designees appointed by the speaker of the house of representatives; 2 senators or their designees appointed by the president of the senate; the commissioner of health and human services, department of health and human services, or his designee; one member from business and industry, appointed by the governor and council; and one member of the religious community appointed by the governor and council. The commissioner of health and human services or his designee shall set the date, time, and location of the first meeting of the task force. At the first meeting, the members shall elect a chair from among their number.

Amendment Adopted. Ordered to Third Reading.

HB 45, Relative to maternity and infancy. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: HB 45 was submitted at the request of the Department of Health & Human Services. What it does is provide for the rule making authority relative to maternal and child health services, which had been dropped in during the process of recodification. The changes in the amendment add a second RSA, which we will not find in the original bill and, it also makes a provision that religious beliefs notwithstanding no medical treatment, eye treatment or drops of nitrate silver shall be required of any child whose parent or guardian objects on the ground that such treatment or eye drops conflict with his sincerely held religious beliefs.

#### AMENDMENT TO HB 45

Amend RSA 132:14 as inserted by section 2 of the bill by replacing it with the following:

132:14 Limitation of Provisions. Except as provided in RSA 132:6 and RSA 132:14-a, nothing in this chapter shall be construed as authorizing any public official, agent, or representative, in carrying out any provision of this chapter, to take charge of any child, or to provide services to any child, over the objection of either the father or the mother of such child, or of the person standing "in loco parentis" to such child, except pursuant to a proper court order. Nothing in this chapter shall affect the operation of RSA 21-N, 186, or 200 or any other law providing maternal or child health services.

Amend the bill by replacing section 3 with the following:

3 New Section; Religious Beliefs. Amend RSA 132 by inserting after section 14 the following new section:

132:14-a Religious Beliefs. Notwithstanding RSA 132:6, no medical eye treatment or drops of nitrate silver shall be required of any child whose parent or guardian objects on the ground that such treatment or eyedrops conflict with his sincerely held religious beliefs.

4 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

HB 166-FN, Relative to sunset review of department of health and human services - division of public health services - electrologists. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: This bill renews the electrologists to 1991, at which time they will be included in the overall sunset review of the Division of Public Health. This measure was supported by Dr. William Wallace of the Division of Public Health. The electrologists are not a separate licensing board and so the feeling of the committee was that it made sense to include them under this administrative body for the purposes of sunset.

#### AMENDMENT TO HB 166-FN

Amend the title of the bill by replacing it with the following:

#### An Act

renewing the department of health and human services -  
division of public health services -  
electrologists for 4 years.

Amend the bill by replacing section 1 with the following:

1 Sunset; Department of Health and Human Services - Division of Public Health Services - Electrologists Renewed. Department of health and human services - division of public health services - electrologists, is hereby renewed for 4 years to be on the same schedule as the division, notwithstanding RSA 17-G. The agency or program shall terminate on July 1, 1991, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

HB 150, Relative to sunset review of New Hampshire hospital. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: This bill renews the New Hampshire hospital for six years. We understand that the date should be 1993, but that it will be taken care of in Enrolled Bills. Dr. Melton testified on behalf of the bill and said that they have already made substantial progress in implementing the recommendations of the sunset review and that they are working now on the computerization. I would urge your adoption.



## AMENDMENT TO HB 150-FN

Amend the bill by replacing section 1 with the following:

1 Sunset; New Hampshire Hospital Renewed. New Hampshire hospital, PAU 05020504 (formerly PAU 050308), is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

HB 146-FN, Relative to sunset review of department of health and human services - office of the commissioner. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: This is another sunset bill, which renews the Department of Health & Human Services and office of the commissioner for six years. The amendment was to change the date. We did change this one to July 1, 1993. Representative Butler from the House appeared before our committee and said that the recommendation in the House from the Health & Human Services Committee was unanimous and wanted us to know that they have convened a subcommittee in their committee, to work upon legislation to implement some of the sunset recommendations. One of them could possibly be a separate division for O.D.A.P and this is something we might look forward to coming to us in the next session. I would urge your adoption of this report.

## AMENDMENT TO HB 146-FN

Amend the bill by replacing section 1 with the following:

1 Sunset; The Department of Health and Human Services - Office of the Commissioner Renewed. The department of health and human services - office of the commissioner, PAU 050201, is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

HB 67, Relative to urea-formaldehyde. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill clarifies the law about the sale of housing units with the urea-formaldehyde and makes sure that only manufactured homes and other housing units that are new would fall

under the purview of the bill. Those of us who had worked very hard on the urea-formaldehyde bill in the last session were very skeptical about this bill and we did because Jim Bianco came in from the Manufactured Homes Group and we just wanted to be sure that this bill was really ok. We talked with Brian Strome in Public Health and he assured us that the bill had not been applied to old manufactured housing from the beginning, so that we were sure after really looking into it, that this is alright. All it does, is clarify what is now present law.

Adopted. Ordered to Third Reading.

HB 422-FN, Creating a committee to study and revise the laws pertaining to elderly persons. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 422-FN creates a committee to study and to review existing state laws relating to the elderly population. It calls for recommendations to be submitted to the Governor and to the General Court. The amendment has a provision that the bill will take effect upon passage. There was strong support for the bill and there was not opposition. The committee recommends ought to pass with amendment.

SENATOR CHANDLER: I would just like to point out that there is already a joint committee on elderly affairs in the House and in the Senate, which I'm one of the members of that committee. But if they want to have another committee or two or three more committees, I don't object to it.

#### AMENDMENT TO HB 422-FN

Amend the bill by replacing section 7 with the following:

7 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading

HCR 7, A resolution relative to the priority of employee claims in Chapter 11 bankruptcy proceedings. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: The HCR 7 just urges the New Hampshire Congressional Delegation to introduce legislation giving people with wage claims higher priority status. They are currently third in line

for getting back pay under the Chapter 11 Bankruptcy proceedings and it is felt that perhaps they should be placed ahead of federal and state government and administrative expenses for professional services. This is what this bill would urge the congressional delegation to do.

Adopted. Ordered to Third Reading.

HB 50-A, Relative to utilization of the Hampton parking meter revenues. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: This bill was in law, but Legislative Services inadvertently left out when drafting the seawall bonding legislation. It allows the seawall at Hampton to be paid for out of Hampton parking meters funds.

Adopted. Ordered to Third Reading.

HB 304-FN-A, Relative to simulcast racing. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: HB 304-FN-A deals with simulcasting, it makes simulcasting permanent. Previously they had to apply for renewal every two years, but now part one of this bill would make simulcasting permanent. The second part of this bill has to do with the payout on simulcasting. It places the payout in New Hampshire in compliance with the other states. Previously the lowest payout in New Hampshire was 10, this bill changes it to 5 on the dollar and that would put New Hampshire in compliance with the surrounding states.

Adopted. Referred to Finance under Rule 24.

HB 555-FN, Relative to lucky 7 tickets sold by dispenser devices. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill would really tighten up the sale of lucky 7 tickets. Now they have somewhat of a security problem and we were interested to know that there are about \$45 million worth of lucky 7 tickets sold in New Hampshire in a year. The rule is that a member of the club has to sell them, it is usually the bartender. He has a box and keeps the money in it. These dispensing devices are very similar to stamp devices. You then can put your money in and buy the ticket. You still buy it only in clubs that can sell lucky 7's. I think that what it will do is tighten up the security having to do with the tickets.

SENATOR ST. JEAN: To let me understand what you said Senator, one of the local establishments in Manchester that I hang around, one of those social clubs, they don't have the machine that you are speaking of. They have this area, it's usually a box in which the lucky 7 tickets are located. How would this legislation change how we operate at the same ratio as young mens club?

SENATOR MCLANE: I'm fairly certain, from reading the bill, that this would allow the tickets to be used. Some clubs find that helpful and one of the problems is that they don't have a full time person on, some times the bar is open and sometimes the bar is closed. So, this would allow them if convenient and if they wanted to use these dispensing machines.

SENATOR ST. JEAN: So in no way does it mandate that these individuals in social clubs have to use this specific machine?

SENATOR MCLANE: No, it allows them to.

SENATOR WHITE: Senator McLane, I have a little concern about this, I wonder if you don't think that this is the forerunner of slot machines?

SENATOR MCLANE: I did when I saw the title of the bill and I would be the first one to be very strongly opposed to it. But I think as it was explained to me, that it is a dispensing machine and that it allows for better record keeping and better use of the machine and that it is in a supervised club. So, if it were sold to a minor for instance, the club would still be under the same regulations as it is. I would be the first to say that I would be skeptical if I had any thought, that although I was very appalled at the number of lucky 7 tickets that are sold in this state. I realize that perhaps this more professionalizes their sale.

SENATOR WHITE: And increases them?

SENATOR MCLANE: Perhaps or perhaps not.

SENATOR WHITE: Are there any controls built in that the next time they don't just put the money in and they pull the lever and we get three oranges going across?

SENATOR MCLANE: I believe that there are some controls on lucky 7's and I think it would behoove the legislature to keep an very firm eye on lucky 7's.

Adopted. Referred to Finance under Rule 24.

HB 657-FN, Relative to the investment of state trust funds. Ought to Pass. Senator Chandler for the Committee.

SENATOR CHANDLER: This bill would allow the state treasurer to have more flexibility in managing some of the trust funds that she is custodian of. She is custodian of three trust funds. One of them is for the State Hospital, the other one is for the Glenclyff Sanitorium and the third one is for the Sam Widden Trust. I have to confess that I never did find out what the Sam Widden Trust was. This bill would allow her to use her discretion to invest the money in legal institutions or legal funds that are legal for the savings banks and get more income from it. She has sometimes suggested to the trustees of these trust funds that she would like to put it in so they will earn a little bit more money. She doesn't get any reply from these trustees, they don't even bother answering her letters or anything. This would allow her to use her own discretion in a prudent manner to handle these three trust funds.

SENATOR ST. JEAN: Senator Chandler, are you aware this week, that the LBA's office recently did another performance audit on the state treasurer's office. Are you aware of that audit?

SENATOR CHANDLER: No.

SENATOR ST. JEAN: As I understand, it did occur yesterday and there was some questions within that audit about the way the state treasurer was currently proceeding in that office, would you believe that that is my understanding?

SENATOR CHANDLER: I would believe anything you say.

SENATOR ST. JEAN: Would you believe Senator, before we give more powers to the treasurer, it would be my opinion, that we insure that she looks at the performance audit and implements what the LBA did with that performance audit?

SENATOR CHANDLER: I think this is really outside of her official duties as state treasurer. She's custodian of these three trust funds. I don't think there is any question about those particular funds in the way she handles them. It is very restrictive and the trustees don't seem to have any interest in what she does with it and she would like to do it so it would increase the earnings a little bit. I don't know what this audit is about, I haven't heard of that and I don't think it relates to this.



SENATOR BLAISDELL: I agree with Senator Chandler, I don't think this has anything to do with it. You're right, Senator St. Jean, in the Fiscal Committee yesterday, the Senators from the Senate side and the House agreed to table the Treasurer's report for another sixty days. I think that will be ongoing and it had nothing to do with it. I think the bill is as Senator Chandler is talking about.

Adopted. Ordered to Third Reading.

HB 662-FN, Relative to reimbursement of the state for patients rendered services by the secure psychiatric unit. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: HB 662-FN has to do with a collection of health insurance payments. When the psychiatric unit was located in the state hospital there was no problem with it. Now it is located at the prison and because of a technicality being located at the prison when there is either health insurance available or for instance an estate could be charged at the expense of these people, the prison is not able to do it. The mechanism is in place, but they need this legislation to enable them to do that.

Adopted. Referred to Finance under Rule 24.

Senator Blaisdell moved that Senate Finance waive a hearing on HB 304-FN-A, An act relative to simulcast racing.

Adopted. Ordered to Third Reading.

### LAY ON THE TABLE

Senator McLane moved to lay HB 171-FN on the table.

HB 171-FN, Relative to sunset review of the New England interstate water pollution control commission.

Adopted.

### ANNOUNCEMENTS

SENATOR CHARBONNEAU: I would like to take Rule 44 pertaining to last Thursday afternoon. I did speak to Gloria to be excused because I had to keep my appointment and I called back and spoke to Mr. Dow and he said that the session was already over. I wanted to make that clear that I just didn't walk out of these Senate chambers without a request.

## RECONSIDERATION

Senator Bond moved reconsideration of HB 126, Relative to sunset review of the commission on the status of women. Whereby the bill was passed.

Adopted.

Senator Bond moved that the bill be put on Second Reading at the present time.

Adopted.

SENATOR BOND: I am offering a floor amendment to HB 126. Last week we passed HB 126, which renews the commission on the status of women. I endorsed the renewal of the commission and I participated in the hearing. One of the concerns that has been raised by a number of members was something that I did not have a presence of mind to address at that time, but which I would like to address now. In section 19B in the floor amendment that you have in front of you, what this does is prevent an agency of the State of New Hampshire from politically endorsing a highly controversial position and that is participating in providing administrative support for holding meetings or anything that has to do with abortion. The commission on the status of women has been criticized in the past for their being politically active in an area like this, this is not helping the status of women, this is dealing with a political lobbying effort and is inappropriate for a state agency in my opinion. I would hope that you would support me by voting for this amendment.

SENATOR BLAISDELL: Senator Bond, I would hope that you would allow this to be tabled for now until somebody can get a reading on this. This is a pretty important amendment and even though I haven't been involved in this, I would hope that you would give the courtesy of this Senate to lay this on the table until we can really look at it.

SENATOR NELSON: Senator Bond, is it a fact that presently they are funding, sponsoring, participating in and providing administrative support for abortion and if so, how are they doing that?

SENATOR BOND: They have co-sponsored efforts that have been related to this and to certain other issues that are just left sitting here. The purpose of the commission of the status of women, is to deal with the status of women not some of the specific concerns that certain segments of society would desire to have.

SENATOR NELSON: Senator Bond, this is the only restriction that you are placing on it? In other words they could participate, contribute, have meetings on any other issue, this would be the only issue?

SENATOR BOND: This addressing has specific concerns that have been brought to my attention by other members of this body.

Senator McLane moved to lay the bill on the table.

Division vote:                      13 yeas                      10 nays

Motion Adopted.

## RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 9th at 1:00 p.m.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

HB 79-A, An act making a capital appropriation for Tip Top House.

HB 377, An act to liquidate encumbrances and lapse available balances on certain capital accounts.

HB 83-A, An act relative to the Cornish-Windsor bridge and making an appropriation therefor.

HB 143-FN, Relative to sunset review of the department of fish and game law enforcement.

HB 95, Relative to hunting accidents.

HB 61, Relative to the executive director setting the deer and bear seasons for taking.

HB 196, Establishing a study committee to determine the feasibility of establishing OHRV trails on rights of way of state highways.

HB 47, Relative to certain fish and game licenses.

HB 192-FN-A, Establishing a program of regional and municipal assistance in the office of state planning.

HB 60-FN, Relative to indemnification of fish and game department volunteers.

HB 73-FN, Relative to falconry.

HB 38, Relative to the method of taking deer in the town of Madbury.

HB 170-FN, Relative to sunset review of Merrimack River flood control commission.

HB 164-FN, Relative to sunset review of Connecticut River Valley flood control commission.

HJR 1, Relative to the New Hampshire agricultural experiment station.

HB 31, Relative to boating on Wakondah Pond in the town of Moultonborough and School Pond in the town of Danbury.

HB 113-FN, Establishing a civil air patrol grant program.

HB 26-FN-A, An act making an appropriation for the New Hampshire Bicentennial commission on the United States Constitution.

HB 269-FN-A, An act relative to the appropriation for motor vehicle replacement.

HB 371-FN-A, An act relative to the compromise of an action against the state and making an appropriation therefor.

HB 522, Relative to membership of the state party convention.

HB 482, Relative to the charter of Wentworth-Douglass Hospital.

SB 1-A, An act establishing the New Hampshire land conservation investment program and making an appropriation therefor

HB 670-FN, Establishing a committee to study matters relative to biomass energy facilities.

HB 97-FN-A, Appropriating funds to the Department of Agriculture for inspection of apiaries.

HB 435-FN, Creating a committee to study head injuries in New Hampshire and relative to health care for indigent.

HB 541-FN, Relative to developmentally disabled persons.

HB 726, Relative to qualifications of the director of human services and establishing certain positions.

HB 545, Establishing a task force on homelessness.

HB 45, Relative to maternity and infancy.

HB 166-FN, Renewing the department of health and human services-division of public health services-electrologists for 4 years.

HB 150, Relative to sunset review of New Hampshire hospital.

HB 146-FN, Relative to sunset review of department of health and human services - office of the commissioner.

HB 67, Relative to urea-formaldehyde.

HB 422-FN, Creating a committee to study and revise the laws pertaining to elderly persons.

HCR 7, A resolution relative to the priority of employee claims in Chapter 11 bankruptcy proceedings.

HB 50-A, An act relative to utilization of the Hampton parking meter revenues.

HB 304-FN-A, An act relative to simulcast racing.

HB 657-FN, An act relative to the investment of state trust funds.

### RECONSIDERATION

Senator Hounsell moved reconsideration on HB 73, Relative to Falconry.

Motion Fails.

Senator White asked that the names of the sponsors of SB 1-A be listed .

Adopted.



Senators Podles, Bartlett, Bond, Hounsell, Heath, Freese, Hough, Dupont, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, Charbonneau, McLane, Johnson, Stephen, Torr, Delahunty, Krasker.

Senator Dupont moved to adjourn until Thursday, April 9th at 1:00 p.m.

Adopted.

Adjourned.

## *Thursday, April 9, 1987*

Senate met at 1:00 p.m.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, look favorably upon us, in our weakness and our strength as we look forward to Palm Sunday with the triumphant entry into the Holy City! So may we also within the framework of a triumphant spirit and humbleness of heart - meet the demands of our Day!

Amen

Senator Pressly led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

### ANNOUNCEMENTS

### HOUSE MESSAGE

### INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 103-FN through HB 630-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

HB 103-FN, Relative to sunset review of the office of legislative services - administrative procedures division and amending the administrative procedure act. (Internal Affairs)

HB 133-FN, Relative to sunset review of state liquor commission-merchandising and relative to the state liquor commission. (Internal Affairs)

HB 144-FN, Relative to sunset review of the department of resources and economic development-bureau of off-highway recreational vehicles. (Development, Recreation and Environment)

HB 157-FN, Relative to sunset review of the board of education-general instruction, school district evaluation guidelines. (Education)

HB 173-FN, Relative to sunset review of the postsecondary education commission-nursing scholarship program, requirements for the nursing scholarship program, and a leveraged incentive program. (Education)

HB 174-FN, Relative to sunset review of postsecondary education commission-war orphans scholarships. (Education)

HB 216-FN, Making an appropriation for the driver training program. (Transportation)

HB 238-FN, Relative to establishing a memorial to Christa McAuliffe and making an appropriation therefor. (Finance)

HB 255-FN, Dedicating a portion of the federal Wallop-Breaux funds, with state matching funds, for the establishment of boat launching access and making an appropriation therefor. (Development, Recreation and Environment)

HB 292-FN, Permitting permanent policemen who serve as field representatives for the police standards and training council and permanent firemen who serve with the fire standards and training commission to continue as group II members of the New Hampshire retirement system. (Executive Departments)

HB 303-FN, Relative to fees collected by the New Hampshire port authority. (Transportation)

HB 357-FN, Relative to respite care in area agencies and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 376-FN, Relative to Alzheimer's disease and related disorders and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 552-FN, Relative to deputy sheriffs and making an appropriation therefor. (Public Affairs)

HB 575-FN, Relative to certification standards for laboratories. (Public Institutions, Health and Human Services)

HB 650-FN, Directing the supreme court to establish a guardian ad litem compensation fund. (Judiciary)

HB 652-FN, Relative to wine importers, the delivery of wine and a definition of "warehouse". (Ways and Means)

HB 658-FN, Relative to the nursing scholarship program and private trade schools. (Education)

HB 659-FN, Relative to payment of court appointed counsel and court costs in certain cases and making an appropriation therefor. (Judiciary)

HB 293-FN, Relative to foster family homes and making an appropriation therefor and establishing a committee on foster families. (Public Institutions, Health and Human Services)

HB 318-FN-A, Determining financial liability for certain educationally handicapped children under the supervision of the division for children and youth services and making an appropriation therefor. (Education)

HB 336-FN-A, Requiring permits for projects affecting the water quality of the surface waters or groundwaters of the state and providing for administrative fines for septic system violations. (Development, Recreation and Environment)

HB 338-FN-A, Relative to the senior companions and foster grandparents programs and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 339-FN-A, Relative to lead paint abatement. (Public Institutions, Health and Human Services)

HB 544-FN, Increasing the limit on the state guarantee of bonds and notes of school districts. (Education)

HB 576-FN, Relative to workers' compensation lump sum payments and state retirement benefits. (Internal Affairs)

HB 586-FN, Relative to mooring of boats on certain lakes in New Hampshire. (Development, Recreation and Environment)

HB 630-FN, Relative to the reduction in benefits for group I members of the New Hampshire retirement system who retire before age 60. (Insurance)

#### HOUSE CONCURS WITH SENATE AMENDMENTS

HB 565-FN, Relative to off highway recreational vehicles.

HB 78-FN, Relative to flying the POW-MIA flag over the state house.

HB 275-FN, Establishing a public investments study committee.

#### HOUSE REFUSES TO CONCUR

SB 102-FN, Establishing a study committee to assess the need for enterprise zones.

SB 48, Relative to the appointment of certain town officers.

SB 100, Relative to exemption from regulation of the design, construction, and alteration of certain small structures.

SB 205, Transferring the administrative authority for bingo.

#### HOUSE CONCURS

SB 143-FN, Reestablishing an advisory committee on state economic development and local population growth.

SB 214, Relative to the allocation of the state's tax-exempt private activity bond limit.

SB 123, Amending ward lines for the city of Portsmouth.

SB 35, Relative to the filing of capital improvement plans by municipalities and the effect of failure to file.

SB 223-FN, Authorizing a New Hampshire technical institute security force.

SB 141, Naming the interstate bridge between New Hampshire and Maine the Sarah Mildred Long Bridge.

### HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SB 42, Relative to employees of the sweepstakes commission.

Senator Hough moved to concur.

Adopted.

SB 29, Relative to the appointment of a caretaker for the "Old Man of the Mountain."

Senator Hounsell moved to concur.

Adopted.

SB 12, Relative to the operation of motors on Clarksville Pond in the town of Clarksville.

Senator Bond moved non-concurrence and requests committee of conference.

Adopted.

The Chair appointed Senators: Bond, Hounsell and Preston

### HOUSE NON-CONCURS IN SENATE AMENDMENT REQUESTS COMMITTEE OF CONFERENCE

HB 190-FN, Relative to district court venue in landlord and tenant actions.

The Speaker has appointed Reps: Thomas Gage, Murphy, Koromilas and Hess.

Senator Podles moved to accede to the request for a committee of conference.

Adopted.

The Chair appointed Senators: Podles, White and Preston.

### ENROLLED BILLS REPORT

SB 57, Relative to change of name and address of a corporation.

SB 65, Repealing the authorization for a committee to investigate the confinement of children.



HB 40, Relative to bond given by administrators of estates.

HB 110, Relative to sunset review of the New Hampshire retirement system.

HB 111, Relative to sunset review of the board of accountancy.

HB 115, Relative to sunset review of regulation of electricians.

HB 118, Relative to sunset review of board of optometry.

HB 119, Relative to sunset review of pharmacy commission.

HB 121, Relative to sunset review of board of registration of podiatrists.

HB 128, Relative to sunset review of civil defense.

HB 129, Relative to sunset review of disaster office.

HB 130, Relative to sunset review of the fire standards and training commission.

HB 138, Relative to sunset review of the department of safety-division of motor vehicles.

HB 139, Relative to sunset review of the police standards and training council.

HB 140, Relative to sunset review of the police standards and training council-corrections.

HB 141, Relative to sunset review of the commission on human rights.

HB 147, Relative to sunset review of department of health and human services-division of mental health.

HB 151, Relative to sunset review of veterans' home.

HB 137, Relative to sunset review of the department of safety-administration and support.

HB 169, Relative to sunset review of Maine-New Hampshire interstate bridge authority.

HB 172, Relative to sunset review of New Hampshire housing finance authority.

HB 176, Relative to sunset review of state board of auctioneers.

### COMMITTEE REPORTS

SB 63-FN-A, An act establishing a state park on the Connecticut River and making an appropriation therefor. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The Senate Finance committee's amendment appears on page 9 of your calendar. What this amendment does is what was agreed with Senator Hounsell when he had the bill in his committee. Clearly it strikes out everything after the enacting clause and then allows for the negotiation on the part of the Department of Development & Recreation and the Fish & Game to negotiate with the owners or their representatives, based on a state appraisal of this property, and to report back in October to the legislature for further disposition if they feel that this piece of land is such that the state should acquire. There is no appropriation in the amendment other than the dollar to keep the bill alive. I have discussed this with Senator Hounsell and when the bill was in Senator Hounsell's committee he recognized that this is a piece of property on the banks of the Connecticut River that the state should look at. It is a critical piece of land and he was concerned with the appropriation as were others including the Governor. It was our understanding that the Finance Committee would address that and I believe Senator Hounsell's in concurrence with the amendment.

SENATOR JOHNSON: Senator Hough, would this piece of property described in this bill, be a piece of property that might very well be acquired under SB 1-A?

SENATOR HOUGH: Thank you for raising that question. I introduced this piece of legislation in request of an organization known as Connecticut River Valley Watershed. When they came to me, they indicated that they were exploring a number of various means in regards to the public acquisition of the state. One of which was the possibility of land trust, but they asked if also a piece of legislation could be introduced so that if all else fails there still would be an opportunity.

SENATOR PODLES: Senator Hough, could you tell me how many acres?

SENATOR PODLES: Well, I believe that it is about 16 acres.

AMENDMENT TO SB 63-FN-A

Amend the title of the bill by replacing it with the following:

An Act

acquiring land on the Connecticut River and  
making an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Negotiations Authorized.

I. The department of resources and economic development acting with the Department of Fish and Game shall conduct joint negotiations with the current owner or the owner's representative, relative to an agreement to acquire 16 acres, more or less, of land fronting on the Connecticut River in West Lebanon, New Hampshire. Such negotiations shall be based on state appraisal of the land involved.

II. The departments shall submit their findings and recommendations based on the state appraisal and their recommended method of funding to the president of the senate and the speaker of the house of representatives on or before October 1, 1987, so that appropriate legislation may be prepared for the 1988 session of the general court.

2 Appropriation. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 1988, to the department of resources and economic development for the purpose of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading

SB 174-FN, An act eliminating the Social Security offset provision for service rendered on or after July 1, 1987, for service and disability retirement benefits for group I members under the New Hampshire retirement system. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: First of all I must apologize to the Senate. The Senate calendar says that this is floor amendment; it is not, it is a committee. I will talk to you about the bill first.

SB 174-FN is the Social Security offset bill that Senator White and Representative at that time, Representative Torr, and I sat on the retirement committee for a couple of years and did not get much further with the bill than probably what it is right now. What this does, when you talk about Social Security offset, is when a person reaches 65 and gets his social security, his state pension is reduced by an offset by social security. There are people in the legislature and outside the legislature that think this is very unfair, but it is a huge problem. Senator White brought it out the other day on the floor when we reported this bill, that the bill we introduced was only going to take care of those that retired as of July 1, 1987. She asked the question, what are we going to do about those that retired years passed? She knows and Senator Torr can tell you now, that this is a humungous as far as money that we would have to spend. So, I felt in introducing the bill, that the dialogues that still go on that we should still look into the problem. So we took everything out of the bill with the exception of setting up a study committee, three members of Senate Finance and three members of the House Executive Departments and Administration Committee appointed by the Speaker and also by the Senate President. We think it's an area that should be studied, but it is a tremendous amount of money and we hope we can come back with some kind of a recommendation in the next session of the legislature. We ask your support.

SENATOR JOHNSON: Senator Blaisdell, you referred to Senator White's previous involvement in this issue and included her in several communications there and yet, the amendment that you offer precludes Senator White from being a party to this, does it not?

SENATOR BLAISDELL: No it does not. This is the result of the open hearings. We put Senate Finance in and House EDNA was done the last time. That's all that was set up in the last sessions and this is what we are doing in this session. Certainly, we will be asking for Senator White's input.

SENATOR JOHNSON: Senator Blaisdell, that was not my question. My question is, does not your amendment preclude Senator White from being a member of this study committee?

SENATOR BLAISDELL: Yes, it also precludes you, too.

SENATOR JOHNSON: What then is the justification for excluding Senator White who has an ongoing interest in this issue?

SENATOR BLAISDELL: You have a right, as any other Senator in this room, to come to any study committee and get your input into it. Certainly, we'll have the right to put what Senator White has talked about in years past. It was not a slight to Senator White. It's just that we felt that three members of Senate Finance and three members of EDNA would be the right amount of people to study something like this.

SENATOR PRESSLY: Senator Blaisdell, this has been an issue that I have been concerned about, as I know many members of the Senate have been. Could you help us out? When would you foresee a proposal that realistically could have legislation that could solve this problem that so many of us feel is quite unfair?

SENATOR BLAISDELL: That's something, Senator Pressly, that this Senate and the House will have to decide, but we are now working with the actuaries to come back in and talk about the fund. As you know the fund is over a billion dollars. There is some other money in there that the actuary talked about to me the other day with some other people of about \$200 million dollars. So what we really are going to do is come back after studying it, to see if we can go back and help the people that retired before 1987 and then come back and give you a recommendation. It is a big problem. I really don't know what the answer is yet, but I am going to keep studying it until I come up with the answer.

SENATOR WHITE: Senator Blaisdell, would you believe that basically from the House portion of it, there were three members of the EDNA Committee and two members from the House Appropriations Committee? So, I do think that when it gets to the House side, it should be amended, because appropriations deals with retirement in the House, along with EDNA. That's where Senator Torr came from. He was a member of the Appropriation Committee.

SENATOR BLAISDELL: If they have an interest in it Senator, none of them have come to me, and I have talked to them about it. They could have come to me and we would have been very glad to put them into it, but nobody had an interest in it, so that's why we put it this way.

SENATOR DUPONT: Senator Blaisdell, wouldn't this be consistent with the way previous study Committees have been set up for this issue?

SENATOR BLAISDELL: Probably, but Senator White is probably right when she says, Senator Dupont, that the House Appropria-



tions was included in it. With no interest from that area, I just felt that this was the proper approach seeing what happened the last time.

### AMENDMENT TO SB 174-FN

Amend the title of the bill by replacing it with the following:

#### An Act

establishing a committee to study retirement system benefits.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is hereby established a committee to study the level of benefits for group I members of the New Hampshire retirement system and the relationship of such benefit level to the social security system's benefits.

2 Membership. The committee shall consist of:

I. Three members of the senate finance committee, appointed by the senate president.

II. Three members of the house executive departments and administration committee, appointed by the speaker of the house of representatives.

3 Report. The committee shall submit a report to the senate president and speaker of the house of representatives and shall file appropriate legislation by November 1, 1987. Such report shall include recommendations for an adequate retirement benefit for group I members and recommendations for the funding of such benefits.

4 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 584-FN, Relative to the special justice of the Pelham Municipal Court. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: This bill, as amended, specifies that upon the occurrence of a vacancy in the Office of the Special Justice of the Pelham Municipal Court shall continue in office as a special justice of the Nashua district court and shall hold sessions in Pelham. It passed the committee ought to pass five to zero.

Adopted. Ordered to Third Reading.

HB 425-FN, An act relative to the powers of the adult parole board and credits for good conduct. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: This bill was requested by the Department of Corrections. It grants the adult parole board the power to administer oaths, subpoena witnesses and compel the production of evidence by subpoenaing records, books and papers. This bill passed the committee six to nothing, ought to pass.

Adopted. Referred to Finance under Rule 24

HB 605-FN, Relative to the terms of persons committed to jails or houses of correction in default of payment of fines. Ought to Pass. Senator Chandler for the Committee.

SENATOR CHANDLER: Sometimes when people are sent to jail or House of Correction, work off a fine, in fact, they work off a fine at the rate of \$5 a day. This bill allows them to work off the fine for the rate of \$20 a day, which seems to be more in line with present day values. So the committee thought it was a reasonable bill and the majority of the committee voted ought to pass.

SENATOR HOUNSELL: The fiscal note talks about a cost of \$35 a day to keep a prisoner. Do you think perhaps that it should be from \$20 to \$35 dollars, so that we might, in fact, make out a little bit better?

SENATOR CHANDLER: No, I do not. That would lessen the time that he was jailed. It might save the county a little bit of money, but I don't think we should let them out too quick.

Adopted. Ordered to Third Reading.

HB 579-FN, Relative to combining the Peterborough and Jaffrey district courts and providing for the tenure of justices when judicial districts are combined. Ought to Pass with Amendment Senator White for the Committee..

SENATOR WHITE: You will find the amendment on pages 11 and 12 of the calendar. Basically, all the amendment does is allow that building either in Jaffrey or in Peterborough. The reason for this bill is that after the Unified Court, the Towns of Jaffrey and Peterborough had a hard time keeping the Courts and their Town Halls. In Jaffrey they have been evicted in the Town Hall and are currently

holding Court in the Women's Club. In Peterborough the Court is currently still in the Town House, but the parking is impossible. So they are thinking of having this built along Route 202 between Jaffrey and Peterborough and they don't know just which town it will be in. Basically it will hopefully be done by revenue bonds, because there is sufficient revenue in those courts to cover it. One big question that comes up at different times, is that we have two different counties represented. But those cases that go from Jaffrey will be reported back to Cheshire County Superior Court and the ones from Hillsborough will go to the Hillsborough County. Jeff Wagner has indicated that there isn't any problem with that. The reason we have gone into the tenure of the Justice is because we currently have a judge in the Peterborough Court who is due to retire, so he has been grandfathered into this bill.

#### Amendment to HB 579-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to combining the Peterborough and Jaffrey district courts and providing for the tenure of justices when judicial districts are combined.

Amend the bill by replacing all after the enacting clause with the following:

1 Peterborough District Court; Redefined as Jaffrey-Peterborough District Court. Amend RSA 502-A:1, XXII to read as follows:

XXII. Jaffrey-Peterborough District. The Jaffrey- Peterborough district shall consist of the towns of Peterborough, Hancock, Greenville, Greenfield, New Ipswich, Temple and Sharon[,] in Hillsborough county and the towns of Jaffrey, Dublin, Fitzwilliam, Troy, and Rindge in Cheshire county. The municipal court for the town of Peterborough is hereby constituted the district court in and for said district and shall be located in [said] Jaffrey or Peterborough, holding sessions regularly therein and elsewhere in [said] the district as justice may require. The name of [said] the court shall be Jaffrey-Peterborough District Court.

2 Jaffrey District Court; Combined With Peterborough District Court. Amend RSA 502-A:1, XXVI to read as follows:

XXVI. Jaffrey-Peterborough District. The Jaffrey-Peterborough district shall consist of the towns of Jaffrey, Dublin, Fitzwilliam,

Troy and Rindge[.] in Cheshire county and the towns of Peterborough, Hancock, Greenville, Greenfield, New Ipswich, Temple, and Sharon in Hillsborough county. The municipal court for the town of [Jaffrey] Peterborough is hereby constituted the district court in and for said district and shall be located in Jaffrey or Peterborough, holding sessions regularly therein and elsewhere in [said] the district as justice may require. The name of [said] the court shall be Jaffrey-Peterborough District Court.

3 New Section; District Courts; Justices and Special Justices; Tenure Following Consolidation of Districts. Amend RSA 502 by inserting after section 3-a the following new section:

502-A:3-b District Court; Justices, Tenure Following Consolidation of Districts. In those instances in which 2 judicial districts are combined, the justices and special justices of the respective courts shall continue to serve as justices or special justices of the newly created district and the senior justice of the 2 courts shall be designated the presiding justice of the district. Upon the retirement, resignation, disability, or removal of either justice or either special justice, the position shall be eliminated leaving one justice and one special justice position for the district.

4 Effective Date. This act shall take effect January 1, 1988.

Amendment Adopted. Ordered to Third Reading.

CACR 4, Relating to the amount in controversy required for a jury trial providing that the amount shall exceed \$1,500.00. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: The amendment to this bill that the Senate Committee voted for, was to reduce the amount in the bill from \$1,500 down to \$1,000. The present amount at this time is \$500. In other words, anybody in court can ask for a jury trial if the amount is \$500 or more. That is an amount that has been on for quite a few years and it seems to me that it's not a realistic amount in today's prices and inflation. So the bill called originally for \$1,500 that would triple it. The amendment reduces it down to \$1,000. However, since we took that action and since the report was printed in the calendar, the committee has changed its opinion and thinks that the amount should be \$1,500 instead of \$1,000 and therefore, I would like to recommend that the Senate vote against the amendment. I would like to have you kill the amendment and leave the bill in its original form of \$1,500 and then we will hopefully pass the bill.

SENATOR HOUNSELL: Senator Chandler, when we changed the Constitution, I noted we all paid particular attention when we proposed a change to this and my question is, has this appeared on the ballot in recent years, say within the last ten years and what were the results of those?

SENATOR CHANDLER: Yes it has. I thank you for asking that question. It received about a little over 64% of the people voted for that amendment when it was on the ballot, to raise it. You know it only needs a 2/3rd's vote and 66% is 2/3rd's and it just barely missed it. I think the public realizes that perhaps the amount should be increased. I believe the Judicial Council, Bar Association and so forth and so on, they have said that they favor the \$1,500 amount and they would do some campaigning and educating the voters of the state as it appears on the ballot to vote for it.

SENATOR HOUNSELL: Could you again just make it clear to my mind, if you could please, the need to go from \$500 to \$1,500?

SENATOR CHANDLER: The reason that I agreed to change my opinion on the bill, was that the small claims court, at one time if you take the Small Claims Court up to \$100, now that has been raised up to \$1,500. That is why we have here a rate propose so this would coincide with Small Claims Court, but anything under the \$1,500 would go to the Small Claims Court. If you have it at \$1,000, the way the amendment was, in which we recommend to kill the amendment, the way it is now at a \$1,000, if some amount was brought in and one party to the dispute wanted a jury trial and the other party didn't want a jury trial, there would be quite a dispute and kind of a mix-up between going to the Superior Court or going to Small Claims Court. So we think, seeing the Small Claims goes up to \$1,500, this provision to allow for a Jury Trial anything over \$1,500 will work in with it and eliminate a lot of trouble.

SENATOR BLAISDELL: Senator Chandler, you say that 64% of the people voted for this?

SENATOR CHANDLER: Yes.

SENATOR BLAISDELL: That's almost like annual sessions, so they must really know what they are doing?

SENATOR CHANDLER: No.

SENATOR PODLES: I would urge you to vote down the amendment. Since this was put on the calendar, we have received new in-



formation of what is does. Of this \$1,500, it just raises the limit to reflect inflation and also up the limit of Small Claims Court, it brings it up to the same amount. In the last presidential election when this was put on the ballot, there was no amount. So the Legislature would have to decide the amount. The voters felt that the amount should be determined by them, what the Constitution should hold. That's the reason it was voted down. This time they have the amount, which is \$1,500 and I think that this is reasonable and I'm quite sure that it could pass. I urge you to vote down the amendment.

SENATOR WHITE: Senator Podles, is it true that in the Committee we really had a split decision on the amendment and just to get it on the floor, that someone changed, so that we could bring it out with the amendment?

SENATOR PODLES: Yes, Senator White, it was a split decision, but I voted to bring it out on the Senate floor and in the last couple of hours we did get information and some of the Senators have changed their minds.

Amendment Failed.

Question: Ordered to Third Reading

Division Vote: 3/5th vote required.

18 yeas

3 nays

Adopted. Ordered to Third Reading.

HB 236, Relative to durable powers of attorney. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: HB 226 deals with an increasing problem in the State. That is the inflation of durable powers of attorney, wherein an elderly person gives the authority to someone else, to exercise their financial rights and then the individual abuses those rights and the elderly person is incapable of rescinding the power of attorney. The bill specifies who may file with the Court to overturn the powers of attorney. The circumstances under which they might petition, what action they may request and what actions the Court may take.

Adopted. Ordered to Third Reading.

HB 213, Relative to guardians for minors and the correction of statutory references for certain appeals. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: HB 213 deals with guardians and it extends guardianship over children who make certain criteria, so they can continue through High School. Right now it affects eleven individuals, most of whom are Indo-Chinese Refugees. It corrects statutory references for appeals for adoption, and it also makes the proceedings for guardianship of minors confidential. It also permits persons who wish to provide for adoptions of step-children. The Committee urges passage.

#### AMENDMENT TO HB 213

Amend the bill by replacing section 6 with the following:

6 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 449, Relative to disciplinary actions for sexual misconduct of psychotherapists and a duty to report sexual misconduct of psychotherapists. Interim Study. Senator Krasker for the Committee.

SENATOR KRASKER: Our Committee held a lengthy hearing on HB 449. We all agreed that there was a problem. The bill was attempting to address the problem of psychotherapists who engaged in sexual misconduct with clients or former clients. However, it was clear to us at the hearing that while there was a problem no one really new how adequately to address the problem. We not only received an amendment, we received two amendments contradictory to one another. We felt in our committee that there was a problem that should be looked into; that Interim Study would allow the dialogue that's already going on amongst groups who are interested in the subject to continue into the next session and so we have moved Interim Study. Since our Executive Session, I have spoken to the sponsor of the bill who agrees and to the groups who testified at the hearing and they are satisfied with Interim Study.

SENATOR NELSON: Senator Krasker, I just ask you, is there something in the law that will take care of this now?

SENATOR KRASKER: It's a criminal action now. What they are looking for was some sort of disciplinary action short of a criminal penalty. One thing that I should add that, while it was looking for

perhaps taking away of licenses, psychotherapists are not licensed. So it would be very difficult to discipline them that way anyway.

Adopted.

HB 677-FN, Relative to a staffing plan for the new central psychiatric facility and a staffing plan for the Glencliff home for the elderly and programs in New Hampshire hospital. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: HB 677 provides for the development of a staffing plan for the new psychiatric facility and that plan is subject to the approval of the Division of Personnel and the Legislative Fiscal Committee. What it does is, set up an organizational plan with all the reclassified positions and provides for a means, whereby present employees, present state Hospital physicians will be transferred. It decreases the individual number of positions and changes of classification. It should provide for a much smoother flow of personnel from the old department to the new. It was cited by one person as being a very excellent plan of future planning. We urge your support.

Adopted. Ordered to Third Reading.

HB 547, Relative to medicaid fraud and patient abuse. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This bill was requested by the Department of Justice. What this bill would do, would recognize by statute, the medicaid fraud unit in the Office of the Attorney General. Second, the bill would specifically make criminal the receipt of payment of kickback raise or rebate between vendors of goods and services and medicaid providers. Finally, the legislation would toughen penalties for those who abuse patients in facilities receiving payments under the medicaid program.

#### AMENDMENT TO HB 547

Amend RSA 21-M:8-a, II as inserted by section 1 of the bill by replacing it with the following:

II. The duties of the unit shall include, but not be limited to the investigation and prosecution of violations of all applicable state laws pertaining to fraud in the

(a) administration of the medicaid program;

(b) provisions of medical assistance under the state medicaid program;

(c) activities of providers of medical assistance under the state medicaid program.

The unit shall also review complaints alleging abuse or neglect of patients in any health care facilities receiving payments under the state medicaid program and may review complaints of the misappropriation of patients' private funds in such facilities.

Amend RSA 151:27 as inserted by section 4 of the bill by replacing it with the following:

**151:27 Abuse of Facility Patients.**

I. A facility licensee, administrator, or employee shall not willfully physically or mentally abuse, mistreat, or harmfully neglect or deprive a patient.

II. The attorney general shall be responsible for the investigation and prosecution of patient abuse or neglect in any health care facility, whether licensed or unlicensed.

III. Any person who violates the provisions of paragraph I of this section shall be guilty of a misdemeanor for the first offense or guilty of a class B felony if serious bodily injury results. For a subsequent offense, a natural person shall be guilty of a class B felony or guilty of a class A felony if serious bodily injury results, or guilty of a felony if any other person.

IV. Any facility licensee or administrator who shall evict, harass, dismiss, or retaliate against a patient, a patient's personal representative, or an employee, as a consequence of such person's filing of a report under this section, shall be guilty of a misdemeanor.

Amendment Adopted. Ordered to Third Reading.

HB 161-FN, Relative to sunset review of the board of barbering and cosmetology. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: This is another sunset bill. This time a sunset review of the board of barbering and cosmetology. We urge that you renew this board of barbering and cosmetology for another six years. We did not change the date. It's our understanding that the 1991 date will be changed in the enrolled bills to 1993. There is a comprehensive bill coming over from the House, HB 590, which will include some changes in this board, but we will get them at another time.

Adopted. Ordered to Third Reading.

HB 383-FN, An act relative to road tolls. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: I bring your attention to the amendment that is printed on page 10, where there is also an amended analysis. This bill does not increase the road toll charges from .09¢ to .14¢ per gallon, as the original bill indicated. What it does is bring into sync all the supplementary taxes and everything that had been adopted along the way, that amounts to the current .14¢ tax on the gallon of gasoline. It also addresses refunds for the tax on boats. A boat owner may pay a dollar per gallon; .14¢ of that is allowed to be refunded back and this just addresses it. It gives the authority for the department to estimate the number of boats registered in the State. So they might determine the refund that might be due. It changes the reporting times from the first day to the twentieth of each month. It now complies with some changes that we have regarding recreational vehicles in weights in Vermont and Maine and it does nothing other than bring up to date what we know as a .14¢ tax in gasoline. It repeals sections where we appropriated a one cent supplementary tax, other one cent supplementary tax and a three cent tax.

#### AMENDMENT TO HB 383-FN

Amend the bill by replacing section 8 with the following:

8 Unrefunded Toll; Basis for Estimates. Amend RSA 260:60 to read as follows:

260:60 [—]Exception. Annually on or before June 1, the road toll administrator shall compare the number of gallons on which refunds have been made for the preceding calendar year for motor fuel used in the propulsion of boats on inland public waters of the state, with the number of gallons of such motor fuel sold and delivered directly into the fuel tanks, or supplementary fuel tanks, of boats or outboard motors upon the inland public waters for use in such boats or outboards, [as reported to the department] as estimated by the department based on the number of boats registered in the state, and if there is any balance of unrefunded tolls so collected, he shall report the same to the state treasurer who shall, on July 1, next following, credit 1/2 of said balance to the division of safety services, having jurisdiction over the navigation of such boats or motors, and credit 1/2 of said balance to the fish and game department. Funds credited to the division of safety services shall be used for the promotion of the safety of navigation and the funds credited to the fish and game department shall be used by said department to carry out its program and be accounted for as the fish and game fund is ac-



counted for. Any balances in the funds hereby credited as above provided shall not lapse at the end of the fiscal year. The department shall pay monthly to the state treasurer all revenue from the aircraft landing area toll.

Amendment Adopted. Ordered to Third Reading.

HB 582-FN, An act providing for regional conferences on highway related problems. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This bill calls regional conferences to be held in counties throughout the State and also separately in the cities of Manchester and Nashua, to be held every two years by the Department of Transportation and Municipal County Town City Officials relative to highway problems, speeding signs, etc. Representative Hoar essentially introduced this because of concerns that he has in the Town of Epping. He used the example of Route 87 where there was a frequency of accidents. There was a fatality there and he went so far as to paint his own lines out on the street, which were later removed by the Department of Transportation, and now their problem is being addressed in some way. There was another serious accident there after this debate he had with the department last fall and I guess that is being remedied. He is trying to convey a message that these meetings should be held, so that they might address community concerns.

SENATOR CHANDLER: Senator Preston, because of a traffic problem in Epping, would this bill require about twelve different State wide hearings in different parts of the State?

SENATOR PRESTON: Well, I use that as an example. That is the reason the Representative introduced the bill. He is just convinced that it is a good idea for the Department of Transportation and one of their Engineering Departments, Safety Departments, Traffic Divisions to post notice of hearings and meet with various public officials in the counties, cities and towns to discuss any problem they have. If the Representative thinks it's a good idea, then he has the right to put in a bill as you have done in the past Senator and that's why we are here debating.

SENATOR CHANDLER: Representative Preston, I don't question anybody's right to put in a bill or anything like that, but also in a physical impact it says, it will increase the State Revenue by approximately \$21,000. How will holding the hearings around the State increase the State Revenue?

SENATOR PRESTON: It could be compensatory time or overtime, Senator.

SENATOR CHANDLER: That expense would take the percentages?

SENATOR PRESTON: Yes, but if you listen to me in the next bill, I'm going to correct that, Senator. If you pass this one, I will take care of it in the next bill.

Adopted. Ordered to Third Reading.

HB 640-FN, An act relative to vehicle license and registration fees, license plates and boat registrations. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This bill was requested by the Department of Safety. If you will look at it, it changes from 5 to 20 day registrations for plates, for those who purchase vehicles out of State. It increases the fee from \$2 to \$10. It increases the fee from \$5 to \$10 on another page regarding transporting vehicles. It may not have been registered, but it is being transported out of State. It conforms with the truck weight law to charge additional fees for upwards of over 80,000 pounds and we voted in the heavier truck law last year. As far as the placement of licensed plates, it increases the fee from up to \$3.50, for certified copy of duplicate registrations, from \$3.50 to \$5.00 and so on, it increases in license fees. As I indicated to you Senator Chandler, I wouldn't encourage spending money without getting some back and this increase is \$287,000.

Adopted. Ordered to Third Reading.

### SUSPENSION OF RULES

Senator Blaisdell moved that the rules of the Senate be so far suspended to allow for a committee report without proper notice in the calendar on SB 236.

Adopted.

SB 236-FN, Relative to the chief medical examiner and associate chief medical examiner. Interim Study. Senator Dupont for the Committee.

SENATOR DUPONT: If you recall, this particular bill was referred back to Finance approximately two weeks ago. We spent some additional time with the Attorney General's Office trying to come to

some agreement as to which direction we would go in with this piece of legislation. At this point and time, the Senate Finance Committee feels that the most appropriate place for this bill, at this time, is to send it to Interim Study. We recognize that there is, and could conceivably be, a need for some of the specific items asked for in this piece of Legislation. But at this point, the Committee is not willing to go forward with an ought to pass recommendation and we would like to put it in Interim Study to gather further information.

Adopted.

Senator Blaisdell moved that the rules of the Senate be so far suspended to allow for a committee report without proper notice in the calendar on SB 40-FN-A.

Adopted.

SB 40-FN-A, Relative to catastrophic aid, and making an appropriation therefor. Ought to Pass. Senator McLane for the Committee.

Senator McLane offered floor amendment.

SENATOR MCLANE: You have before you an amendment by Senator Disnard numbered 2388B. Although it says floor amendment, it is the unanimous vote of the Committee to set forward this amendment. Let me tell you the cost containment measures that it has. First of all, we have a fairly substantial cost amendment, in that, we are putting in a dollar. The House has passed this identical subject of catastrophic aid at \$6.6 million in the first year and \$6.8 million in the second year. It is obvious that there is work to do on the funding for this bill or within the budget. But, we have in this amendment provided for two very significant cost containment measures. One is that, if any individual education plan or a handicapped child for residential placement and education, exceeds the cost of \$20 thousand dollars, that plan must be approved by the Department of Education's Special Education Bureau. Secondly, that the rates per private providers of Special Ed shall be established by the office of administration in the Department of Education, as they are presently. This bill allows for them to consult with the Department of Health and Human Services and the Department of Administrative Services. It was felt that they would be greatly helped by a joint effort, to concentrate not only on the physical needs of the child, as well as the educational needs, but in some good sharp pencils in the Department of Administrative Services to do some analysis of how much these costs were and what comparable costs were in other school

districts. Both of these measures, I believe, are going to greatly enhance the ability of the Department of Education to coordinate Special Ed Programs. It is suggested that in the districts that are over the amount in number of coded children, that it would be particularly helpful for the Department of Education to consult especially with a matter of cost containment. So, that all three of those measures are before you in the amendment.

SENATOR JOHNSON: In regards to section four, (i) of this, is it true that you introduced and sponsored legislation either in previous session that was intended to accomplish the purpose of (i) there?

SENATOR DUPONT: I don't recall having done that, but I did work on a special Committee that was looking in that issue at one point in time. I'm not familiar that I sponsored anything in that specific area.

SENATOR JOHNSON: Would you believe that I do indeed remember that, and would you further believe that you called for particularly a study of those school districts that exceeded the 10 or 11%?

SENATOR DUPONT: Senator, I sponsored so much good legislation.

SENATOR JOHNSON: Finally, would you believe that I hope this will have a better faith than the previous one?

SENATOR DUPONT: Senator, since we considerably addressed that issue, the Department of Education feels very strongly about that particular session. They feel that that is an area were they can provide some technical assistance in school districts.

SENATOR HOUNSELL: Senator McLane, having served on a joint committee with Senator Heath and Senator Dupont in regard of this matter, I think you have done a tremendous job and you are very close to solving the problem and I think that Senator Disnard is to be commended. I have just one thing that I would like to know if you will clarify, on the front page under paragraph 3, rate setting and paragraph H, could you explain the difference to me between that and the next page, paragraph II?

SENATOR MCLANE: I'd be happy to and I think that the problem is that neither one of us have the present law in front of us. I think that basically what we have done is realize that the Department of Education has the power now to set the rates. This isn't changing that, and literally, what it is doing is setting by statute that they

should consult with the other two departments. We went back and forth on this in our Committee and we're very clear that it was not given to another Department the power to set the rates. That power is held within the Department of Education and literally what it does is just allow them to consult with the Departments of Health and Human Services, Education and Administrative Services. But, Education is the one that sets the rates, although it doesn't look like it in that paragraph.

SENATOR HOUNSELL: It was my understanding that it doesn't allow them, but it requires that they be told.

SENATOR MCLANE: Yes, exactly.

SENATOR DISNARD: Thank you Senator McLane for that very explicit information. I think this is important for all of us here to understand that superintendents in the testimony this morning support this. This was mentioned by the Executive to the Assistant Executive Director of that group and the Commission of Education. The Commissions and Superintendents did not oppose it in any manner at the meeting last week. For the first time, we are involving multi-agency groups in the State to help work together who establish rates and lower costs and for once we have a financial advisor, the Administration of Financial area that can help. This isn't anything new because now in the law the Administration Finance must review all contracts the State signs anyway. So this isn't adding any new ideas here. I think it is important that the Department of Education has worked on this, the Commissioner of Education especially and the Superintendents and for once spending millions of dollars this organization is indicating, we wish to review the cost and see how much we can control with those.

SENATOR MCLANE: I'm sorry, but there are two things that I feel that I should mention. First of all, when you are talking about a child who's total education cost exceeds \$20,000, there are 169 of those children in this State. So you can see that it is a significant problem. The other matter that I thought I should bring to your attention is that the Governor today did have a suggestion to amend the bill to update more clearly the \$20,000 and the \$9,000 and because that amendment is not ready, we are not bringing it forward at this time because there will be, I dare hope, opportunity in the House hearing to do that.

#### Floor Amendment to SB 40-FN-A

Amend the bill by replacing all after section 1 with the following:



2 Review of Placements. Amend RSA 186-C:7 by inserting after paragraph III the following new paragraph:

IV. Any individual education plan which includes a residential placement, and for which total education costs exceed \$20,000 shall be reviewed and approved by the special education bureau of the department of education, according to procedures adopted by the bureau.

3 Rate Setting. Amend RSA 21-N:5, I(h) to read as follows:

(h) Rate setting, as specified under RSA 186-C:7, III. Such rate setting shall be accomplished in consultation with the department of health and human services, [whenever appropriate] and the department of administrative services.

4 Special Education Coding. Amend RSA 21-N:5, I by inserting after subparagraph (h) the following new subparagraph:

(i) Review the special education coding of children in communities where the number of children in special education programs exceeds 10 percent of the enrolled pupil population.

5 Rate Setting; Special Education. Amend RSA 186-C:7, III to read as follows:

III. The special education bureau of the department of education shall assist each school district in developing an approved program or programs for educating the educationally handicapped children of the district including the setting of approved rates for private providers of special education services pursuant to RSA 21-N:5, I(h).

6 Rate Setting: Health & Human Services. Amend RSA 126-A:49 to read as follows:

126-A:49 Educational Expenses.

I. Educational expenses of any resident or patient, who is capable of being benefited by instruction and who is between [6] 3 and 21 years of age, as required under statute and incurred in the institutions named in or at the direction of the commissioner of health and human services, in any public or private institution or elsewhere, shall be recovered from the school district in which the patient's or resident's parents or legal guardian reside on the January first preceding the recovery up to the state average elementary cost per pupil, as determined by the

state board of education for the preceding school year. The liability of the school district for such expenses shall precede that of the persons or estates named in RSA 126-A:46 and RSA 126-A:47, which are hereby relieved of liability for such expenses to the extent of the school district's liability.

II. Rates for private providers of special education services shall be set as provided in RSA 186-C:7, III, by the departments of health and human services, education, and administrative services.

7 Regional Programs. The commissioner of the department of education shall study and propose legislation relative to requiring sending school districts to participate in the creation of regional programs for special education students. Such proposed legislation shall be submitted to the chairmen of the senate and house education committees before September 1, 1987.

8 Effective Date. This act shall take effect July 1, 1987.

Floor Amendment Adopted. Ordered to Third Reading.

#### TAKEN FROM THE TABLE

Senator Disnard moved to take from the table HB 224-FN, Establishing a study committee to ascertain the feasibility of establishing restaurants along the turnpike system where permissible.

Adopted.

Senator Disnard offered floor amendment.

SENATOR DISNARD: A floor amendment is being passed out for HB 224-FN. In a recent session this body tabled this bill. It's a House bill, it's an act to establish a study committee to ascertain the feasibility of establishing restaurants along the turnpike system where permissible. The main opposition appeared to be at the time this was tabled, that there were more House Representatives than Senate Representatives on this committee. Legislative Services amended this at my request and now I think you will notice in the floor amendment in front of you, this proposed a seven member committee. There are two members from the House Public Works, one member from the House Appropriations, two members from Senate Transportation and one member from Senate Finance, along with a Representative from the Department of Transportation. I think this addresses the concern that people have that one branch of government could out vote the other branch of government. I hope now you will realize it's only a study committee and it may help the State.

SENATOR PRESTON: This is great reluctance that I rise to speak in opposition to my colleague, especially my democrat colleague in the Senate. Frankly, it's not just the membership that bothers me, Senator Disnard, I think it's a lousy idea. I'm really not interested in participating in a committee to decide whether we are going to put food establishments on highways or not. If I didn't make myself clear the other day, I think it is one of my weak-kneed excuses to oppose the bill. I did say it didn't even mention Senators, but I think the main body of my opposition was I just don't agree with it and that's why I voted against it.

SENATOR DISNARD: Senator Preston, I'm assuming you are aware that the State does not have enough money to keep rest areas open in the State. I'm also assuming that you are aware that we are a tourist State and also assume you realize that males in this State have prostrate troubles and they also need rest areas and this might be a way to assist them?

SENATOR PRESTON: If that's true, I recommend that we recommend this to Public Institutions & Health and Human Services.

SENATOR JOHNSON: I rise in opposition to the amendment and I share the concern that Senator Preston has espoused. The reason for my objection to it is the fact that, I guess I don't want to see New Hampshire Interstate's look like New Jersey and New York and so forth. I think we continue to believe that we have something unique about our interstates here. I share Senator Disnard's concern about rest areas and I agree that they ought to be opened year round and greater hours. So, Senator Disnard reign with your concern there, I don't think that establishing a study committee putting restaurants on our interstates that would compete with our private enterprises there is the solution to this issue.

SENATOR FREESE: Senator Johnson, I do recall this bill being discussed briefly on the floor, and my question is, it's just a study, there is no money attached. Wouldn't you feel that it would be appropriate to study the issue and that there might be a plus sign to the top breakfast along the turnpike running from Massachusetts State Line to maybe the North Country?

SENATOR JOHNSON: I'd be more inclined to answer your question in the affirmative if you had included that possibility of also a minus side there. The way you phrased the question, with all the respect of my good colleague Senator Freese, seems to suggest that

there is a predetermination in the out- come of the study committee and I think in part that is why I would object to it.

SENATOR FREESE: Would you believe that I really don't understand your conclusion to my first question. There is no particular goal to my question. I accept to study it and see if it has any merit?

SENATOR JOHNSON: I understand the thrust of your question, but included in that was the notion that there is a suggestion that it could come out with a positive finding. Those were your words and I draw from that the inference that that is the likely conclusion. If you had also said that they might come out on a minus side, I would have been more inclined to support this. I would be glad to say that.

SENATOR PRESSLY: I rise in support of the amendment and I would like to say that I certainly am not afraid of new information and I trust the majority of you, who are also not afraid of new information. I share Senator Johnson's concern for the visual impact and certainly if there is any proposal, there are some extremely exciting and very very appropriate type of architecture. So, I think that if you are concerned about the visual impact, that if there should be a positive proposal, there would be ways to insure that it would be aesthetically appropriate to the State. I have a completely opened mind to the issue, I am very interested in knowing what a study committee would bring forth. I certainly cannot oppose finding out more information.

SENATOR ST. JEAN: I rise in support of this pending amendment. We in this State have decided in our wisdom to put along every major highway liquor stores. So, I think that if we are going to do that, I think the least we should do is study the possibility of having restaurants, perhaps next to the liquor stores, so those individuals who get thirsty along there drive up the interstate, then perhaps they can have a bit to eat.

SENATOR DUPONT: I share the wisdom of Senator Pressly, in that, I think that this is something that would be beneficial to the State and we ought to take a look at some additional information. It is interesting, I think, just to listen to the comments and nobody has really hit upon a real reason that we ought to take a look at this. I know that when I travel out of the State and when I travel a route a second time, I'm always looking for that restaurant that I found on my first venture down that road, just a place to get a cup of coffee or take a brief walk around the car, as I'm on a long trip. I think it

provides not just a vehicle for a business to make some money by having that restaurant along the side of the interstate, but also provides some much needed services. It is perhaps, from a aesthetic point of view, something that we may not want, but I think it wont hurt to take a look at it, to see if there is some feasibility.

SENATOR HOUNSELL: I rise in opposition to the amendment. I'm taking care of all the study committees that are being established and the thought runs into my mind, suppose we have a study committee and no one showed up. Time and time again, you are going to see people appointed to these committees. They're going to study everything. I think we ought to establish a study committee to study study committees. The main thrust of this tourist State is to get people off the highways and into land, into the countryside to look at some of the wonderful things that business has out there. I don't think that this bill is worthwhile.

SENATOR BLAISDELL: I rise in support of whatever Senator Disnard is going to do. I really truthfully believe him, I sat on it. I've sat on study committees where nobody has ever showed up and the things that came out of that was excellent, when they weren't there. I think this is a Joe six pack bill, I think we should pass it.

SENATOR BOND: I rise in opposition to the floor amendment. The distance from my house to here makes me respect Senator Disnard's concerns. However, there is U.S. 3 that runs parallel to I-93 and on it are many tax paying, hard working, small business people with restaurants, garages and so forth, who have restrooms, who pay room and meals tax and who are not operated by out of state corporations. The purpose of our tourism business is to bring people into the state to go to those small local businesses. I think that to take business away from them, by giving them an Interstate Restaurant Chain locations, located along the interstates, is not to the advantage of the state of New Hampshire.

SENATOR ST. JEAN: Senator Bond, would you believe that I think one of the problems that we have in this state is, that our roads are so good, that individuals come up from Massachusetts, Connecticut and New York before they realize that they have come through our State on our interstate system, they have gone to Vermont and Canada. This way with the possibility of road side attractions in the forms of restaurants, that may slow them down and perhaps they end up staying in district #1, #2, or #3 perhaps?



SENATOR BOND: Senator St. Jean, I have to concur that it's easier to get to Vermont now than it use to be. However, if you were to place the restaurants somewhere around triple eye road in North Woodstock, you would severely hurt Lincoln and North Lincoln's areas which are now passed by the interstate as an example.

SENATOR ST. JEAN: Would you also believe Senator, that one of the best one moneywise, the one that does the most business of the Burger Kings in this state, is the one in Ashland, NH?

SENATOR BOND: I am a frequenter of that, due respect of Senator Disnard, and I would believe you.

SENATOR DISNARD: Senator Bond, would you believe I now hear that all the average restaurants in your area are now going to be open 24 hours a day to help the tourism travel?

SENATOR BOND: I wouldn't believe that categorically, but I will certainly work on it with due respect.

SENATOR CHANDLER: I would just like to point, given a little information in related things, two sessions ago, the Legislature passed a bill to allow the rest areas run by the State to sell food, in the form of candy, sandwiches, soft drinks, coffee so forth and so on. It was estimated at that time that that would bring several million dollars of income to the State. That bill passed. Bids were put out for food service companies to bid on certain locations and some of them maybe had a million visitors a year and there were a various number of visitors and bids were put out. Would you believe that there wasn't a single food dispensing company that we thought would flood in there to avail themselves the opportunity to make some money. Nobody bid on it. That is something that surprised everybody and I didn't think the Senate knew about it, so I thought I would bring that piece of information for your consideration.

SENATOR ST. JEAN: Senator Chandler, would you believe, in this study committee, we may want to look at the possibility of utilizing our Voc-Techs, UNH and the Hotel Administration School to perhaps erect the structures next to the highway and allow our State's Voc-Tech and possibly the college's to run those and we could further derive some more income for the state's coffers being dedicated to the educational system of this state?

SENATOR CHANDLER: I would believe that it was the composition with private enterprise.

SENATOR NELSON: Senator Disnard, would you believe that all the discussion that is being generated by this amendment, it might possibly be a further study at another time?

SENATOR DISNARD: I believe anything you say.

#### Floor Amendment to HB 224-FN

Amend section 1 of the bill by replacing it with the following:

1 Committee Established. There is hereby established a 7 member committee to study the feasibility of establishing restaurants along the state's turnpike system where permissible. The committee shall be composed of 2 members from the house public works committee, appointed by the speaker of the house of representatives; one member from the house appropriations committee, appointed by the speaker of the house of representatives; 2 members of the senate transportation committee appointed by the president of the senate; one member from the senate finance committee appointed by the president of the senate; and one representative from the department of transportation, designated by the commissioner of transportation. The members shall choose a chairman. The committee shall investigate the various types of restaurants or food establishments which would be authorized; recommend the locations for a restaurant site which would not conflict with federal regulations; if restaurants are to be state operated, the construction costs; revenue estimates, based on vehicle tabulation data; and any other matters deemed to be relevant to the study. The legislative members shall be entitled to legislative mileage when performing duties in connection with the work of the committee. The committee shall make a report of its findings and recommendations to the speaker of the house and president of the senate no later than December 1, 1987.

Floor Amendment Adopted. Ordered to Third Reading.

#### TAKEN FROM THE TABLE

Senator Preston moved to take from the table HB 126, Relative to sunset review of the commission of the status women.

Adopted.

Senator Preston moved Ought to Pass.

SENATOR PRESTON: HB 126, there was a motion for reconsideration the other day and we so voted. There was an amendment about to be offered, but the bill in its entirety was just placed upon the

table. I've asked that it be removed from the table and passed in its original form at this time. It has to do with the sunset of the renewal of the Commission of a Status of Women. I urge my colleagues to vote for the bill at this time without any amendments.

SENATOR BOND: I regret the inconvenience that I caused some members of this body because of my motion the other day. However, I did in fact accomplish exactly what I wanted to do. Yesterday in a telephone conference meeting by the unanimous vote of the commissioners with the exception of the chair, it was adopted that they agreed that abortion was not an issue in which they should serve an advocacy roll. Therefore, I have no concerns about the continuation of the commission as long as that is the position of the commission.

Adopted. Ordered to Third Reading.

### RESOLUTION

Senator Dupont moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

### Third Reading and Final Passage

SB 63-1 A, Acquiring land on the Connecticut River and making an appropriation therefor.

SB 174-FN, Establishing a committee to study retirement system benefits.

HB 584-FN, Relative to the special justice of the Pelham Municipal Court.

HB 605-FN, Relative to the terms of persons committed to jails or houses of correction in default of payment of fines.

HB 579-FN, Relative to combining the Peterborough and Jaffrey district courts and providing for the tenure of justices when judicial districts are combined.

HB 236, Relative to durable powers of attorney.

HB 213, Relative to guardians for minors and the correction of statutory references for certain appeals.

HB 677-FN, Relative to a staffing plan for the new central psychiatric facility and a staffing plan for the Glenclyff home for the elderly and programs in New Hampshire hospital.

HB 547, Relative to medicaid fraud and patient abuse.

HB 161-FN, Relative to sunset review of the board of barbering and cosmetology.

HB 383-FN, An act relative to road tolls.

HB 582-FN, An act providing for regional conferences on highway related problems.

HB 640-FN, An act relative to vehicle license and registration fees, license plates and boat registrations.

SB 40-FN-A, Relative to catastrophic aid, and making an appropriation therefor.

HB 224-FN, Establishing a study committee to ascertain the feasibility of establishing restaurants along the turnpike system where permissible.

HB 126, Relative to sunset review of the commission on the status of women.

CACR 4, Relating to the amount in controversy required for a jury trial. Providing that the amount shall exceed \$1,500.

Division vote: required 3/5th vote.

20 yeas

2 nays.

Adopted.

Senator Dupont moved that the Senate be in recess until Tuesday, April 14th at 1:00 p.m. for the purpose of introducing legislation, referring bills to committee, scheduling hearings, and receiving Enrolled Bill Reports.

Adopted.

Recess.

*Friday, April 10, 1987*

Out of Recess.

Senator Bartlett in the chair.

## HOUSE MESSAGE

### INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 296-FN-A through HB 683-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

HB 296-FN-A, Establishing a department of securities and making an appropriation therefor. (Insurance)

HB 345-FN-A, Relative to salaries of probate judges and the sessions of probate courts and making an appropriation therefor. (Judiciary)

HB 349-FN-A, Relative to special education and certified programs for children and youth in out-of-home placements. (Judiciary)

HB 367-FN-A, Establishing a study committee to examine the cooperative extension service. (Public Affairs)

HB 660-FN, Relative to information services at highway rest areas and appropriating fees for these services. (Development, Recreation and Environment)

HB 693-FN, Relative to determining membership in the New Hampshire retirement system. (Insurance)

HB 696-FN, Relative to interest payment calculations under the New Hampshire retirement system and making an appropriation therefor. (Insurance)

HB 91-FN-A, Establishing a state liquor store in the town of Londonderry and making an appropriation therefor. (Ways and Means)



HB 217, Relative to nursing home care costs paid by counties. (Public Institutions, Health and Human Services)

HB 273-FN-A, Relative to congregate services programs and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 300-A, Making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 1988 and June 30, 1989. (Finance)

HB 319-FN-A, Establishing a premium upon the sale of alcoholic beverages for use in the prevention and treatment of alcohol and drug abuse and the rehabilitation of drug abusers and making an appropriation for the alcohol and drug abuse prevention committee. (Ways and Means)

HB 322-FN-A, Relative to the AIDS virus and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 325-FN-A, Relative to the distribution of sweepstakes revenues. (Ways and Means)

HB 326-FN-A, Establishing homemaker services for certain persons and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 354-FN-A, Relative to the Franklin-Laconia connector and making an appropriation therefor. (Capital Budget)

HB 355-FN-A, Relative to the assumption of local probation functions by the state and making an appropriation therefor. (Judiciary)

HB 370-FN-A, Relative to employment opportunity (Interstate Cooperation)

HB 607-FN, Increasing the personal needs allowance for recipients of medical assistance residing in nursing homes, shared homes, and community residences, and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 651-FN, Relative to compensation of district court justices and special justices. (Judiciary)

HB 679-FN, Relative to buyers of farm products and distribution of funds to agricultural fairs, and making an appropriation to the secretary of state for a central indexing system for security interests in farm products. (Development, Recreation and Environment)

HB 683-FN, Relative to state employee benefits. (Executive Departments)

Recess

Out of Recess.

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 14, 1987 at 1:00 p.m.

Adopted.

### LATE SESSION

Senator Dupont moved that we adjourn.

Adopted.

*Tuesday, April 14, 1987*

Senate met at 1:00 p.m.

A quorum was present.

Senator Bartlett in the chair.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we thank you for this day - with its Festival of The Passover, which commemorates the Exodus from Egypt! Let the Freedom from Bondage - with its ups and downs throughout the centuries and even Now be a lesson in progress and determination and a Monument of Liberty for themselves and others in this Topsey Turvey World!.

Amen

Senator Hough led the Pledge of Allegiance.

### INTRODUCTIONS

### RESOLUTION

Senator Heath read a resolution commending the Moultonboro Academy Basketball Team who won the Class S State Championship.

## HOUSE MESSAGE

## HOUSE CONCURS WITH SENATE AMENDMENTS

HB 422-FN, Creating a committee to study and revise the laws pertaining to elderly persons.

HB 164-FN, Relative to sunset review of Connecticut River Valley flood control commission.

HB 170-FN, Relative to sunset review of Merrimack River flood control commission.

HB 31, Relative to boating on Wakondah Pond in the town of Moultonboro.

HB 150, Relative to sunset review of New Hampshire hospital

HB 518, Relative to enforcement of the underground utility damage prevention system.

HB 670-FN, Relative to wood-fire electrical generating plants.

HB 166-FN, Relative to sunset review of department of health and human services-division of public services-electrologists.

## HOUSE CONCURS

SB 66, Relative to the office of reimbursements.

## HOUSE REFUSES TO CONCUR

SB 95-FN-A, To reimburse the mediator of the Eidelweiss Madison negotiations, and making an appropriation therefor.

SJR 1, Against communist tyranny.

## HOUSE RE-REFERRED

SB 147, Relative to surety bonds.

## HOUSE NON-CONCURS IN SENATE AMENDMENT

## REQUESTS COMMITTEE OF CONFERENCE

HB 83-A, Relative to the Cornish-Windsor bridge and making an appropriation therefor.

The Speaker has appointed Reps: Pearson, Schotanus, Driscoll and Kincaid.

Senator Torr moved to accede to the request for a committee of conference.

Adopted.

The Chair appointed Senators: Torr, Chandler and Preston.

#### HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SB 133-FN, Relative to immunizing children.

Senator Krasker moved to concur.

Adopted.

#### ENROLLED BILLS

SB 35, Relative to the filing of capital improvement plans by municipalities and the effect of failure to file.

SB 141, Naming the interstate bridge between New Hampshire and Maine the Sarah Mildred Long Bridge.

SB 143, Reestablishing an advisory committee on state economic development and local population growth.

SB 223, Authorizing a New Hampshire technical institute security force.

HB 78, Relative to flying the POW-MIA flag over the state house.

HB 94, Relative to real estate attachments.

HB 99, Relative to district court sessions in towns within a district.

HB 275, Establishing a public investments study committee.

HB 328, Relative to business profits tax liens.

HB 426, Allowing the rendition pursuant to the Interstate Compact on Juveniles of a juvenile charged with delinquency.

HB 431, Relative to treasury deposits.

HB 565, Relative to off highway recreational vehicles.

Adopted.

#### HOUSE REQUESTS JOINT CONVENTION

The House of Representatives is ready to meet with the Honorable

Senate in Joint Convention at 1:35 pm for the purpose of hearing former Governor of Arizona, Bruce Babbitt, and for the purpose of hearing Chief Justice Brock present his message on the state of the Judiciary.

Adopted.

Recess

Out of Recess

### COMMITTEE REPORTS

HB 656-FN, Relative to cruelty to animals. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: This bill as amended authorizes the state veterinarian to enforce laws pertaining to cruelty to animals and to investigate complaints relative to abuse of animals. Dr. McGinnus, the State Veterinarian, said that there was a need for this legislation because there are areas of the state where there are no SPCA's and this will enable him to go into those areas, investigate and file complaint against cruelty, particularly to large animals, and I would urge your adoption.

Adopted. Ordered to Third Reading.

HB 654-FN, Relative to dogs and cats. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: There was a need for this legislation as well, in order that the state veterinarian can file complaints and assess some penalties, particularly where pet stores were selling pets and they became ill and there was really no recourse. This will enable pets in pet stores to have health certificates and to be inoculated and will provide some protection to the consumer.

Adopted. Ordered to Third Reading.

HB 71, Relative to the fiscal note process. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: HB 71 allows the legislative budget assistant to seek assistance and data and other information he requires from outside reliable sources, in addition to the state agencies and political subdivisions now cited in the law. He's able to do it now, but HB



71 gives him specific authority to do it. Most importantly, it opens up another source of data for the legislature in their fiscal notes. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

HB 406, Relative to the priority of unpaid employee wages in insolvency proceedings. Ought to Pass. Senator St. Jean for the Committee.

Senator St. Jean moved to recommit.

SENATOR ST. JEAN: We ask that HB 406 be recommitted to committee, so our legal counsel can go over it. There may be some problems with the law dealing with the federal bankruptcy law. It was brought to our attention by June Goulson in the Senate Research Office.

Adopted.

HB 227, Requiring notification of late payments by subcontractors to unions. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: HB 227 is a notification bill. It requires that within a 15 day time period the Department of Labor is notified of late payments from the prime contractor.

Adopted. Ordered to Third Reading.

HB 180-FN, Establishing a study committee to examine the publication and distribution of session laws. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This study committee was requested because of the number of session laws that we are printing up. We need to know where they are distributed and where they are going. There seems to be a number of them that aren't being taken or bought, so we're just going to find out where they are going and perhaps the end of the study will show that we can save some money in distribution costs.

Adopted. Ordered to Third Reading.

HB 132-FN, Relative to sunset review of the state liquor commission - office of the commissioner/regulation. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This renews the state liquor commission office of the commissioner for a period of six years.

Adopted. Ordered to Third Reading

HB 131-FN, Relative to sunset review of the state liquor commission - office of the commissioner/administration. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Again, this renews for a period of six years, under sunset, the office of the commissioner and the administration office over in liquor commission.

SENATOR JOHNSON: Senator St. Jean we're going through these pretty quickly. Were there any sunset recommendations that were considered in regards to these bills?

SENATOR ST. JEAN: Sunset staff was present. There were none made on 131-FN or the next bill, 134-FN.

Adopted. Ordered to Third Reading.

HB 134-FN, Relative to sunset review of state liquor commission - warehouse. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Again another sunset bill. This one deals with the warehouse over in the liquor commission and it extends it for a period of six years under sunset.

Adopted. Ordered to Third Reading.

HB 703-FN, Relative to the board of auctioneers. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 703 makes several changes in the licensing of auctioneers. It gives the board of auctioneers authority to establish bond and content of license application. It changes the expiration date of the license and that extends it to one month. It establishes disciplinary action and it repeals the section grandfathering auctioneers practicing prior to September 1, 1969 because by now anybody that is going to be grandfathered has been. The amendment raises the bond requirement from \$5,000 to \$10,000 and makes the effective date on passage. The committee recommends ought to pass with amendment.

## Amendment to HB 703-FN

Amend RSA 311-B:8 as inserted by section 3 of the bill by replacing it with the following:

311-B:8 Bond. No license shall be granted until the applicant has filed a bond with the secretary of state in the sum of [\$5,000] \$10,000, with sureties approved by the secretary of state, conditioned that he will properly account for and deliver to the person entitled, all moneys and things of value coming into his hands as an auctioneer and will conform to the laws relating to such auctions. All bonds required under this chapter shall be purchased from a reputable company authorized to do business in this state.

Amend the bill by replacing section 9 with the following:

9 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

Senator St. Jean wished to be recorded as taking Rule 42.

HB 707, Relative to the implementation of public utility rate schedule under bond. Inexpedient to Legislate. Senator Dupont for the Majority.

SENATOR DUPONT: You have before you HB 707, which was heard by Senate Internal Affairs last week. I believe it's the only bill that has come out of Internal Affairs with a split report and probably one of the more lengthy hearings that we've had and one that took a tremendous amount of deliberation on our part, before we decided exactly what was going to happen.

I think there are some key points that I'd like to address very briefly with you about 707. While I agree with the sponsors of the bill that this bill was driven by one specific incident, my agreement with the sponsors ends right there. What you have in front of you is a bill that addresses a rate case in place right now at the PUC. It addresses and focuses its attention on the exception to the rule and that is one incident that has taken place in a rate hearing, as a result of the change of our national tax codes. There has been no determination on the part of the PUC that the 14% rate increase that Public Service has requested is unjustified and certainly, if I had to make my own determination whether it's justified or not, I probably would agree with the sponsors of the bill and say it's probably too high.

What happened in this particular case is after this rate increase was filed the PUC, because of the need for additional information, was unable to render a decision within the six month time period. Public Service, at that point in time, decided to go with the bonded rate, which is permitted under the existing law, rather than using the temporary rates statute which would require another hearing by the PUC. Because of that, the full rate increase went into place. Now, we agreed with the sponsors that there is an existing problem with the bonded rate. The bonded rate does not allow one to adjust down to the requested increase, if there is a problem in terms of the amount of the increase. So what you have in front of you is a bill that really doesn't address the problems of the existing statute. What it does is it wipes out the existing statute which has been used very effectively and very fairly in the past. What we basically said was that the issue here is not the statute as a whole, which the bill does take away the use of that statute, but it deals specifically with something that may never happen again and that is the timing that caused this problem to take place. We felt that there may be a need to address this problem, but you don't address it by addressing all of the utilities and the whole statute in one shot. You address it by fixing the statute rather than removing it from the book. So, you have the committee report, which is a split report, that we feel very strongly that this problem can be adequately addressed without removing this statute that has worked very effectively for other utilities in the past.

Senator Preston moved to substitute Ought to Pass.

SENATOR PRESTON: Forgive me for taking a few minutes on this bill but, background of this bill essentially is that it repeals the statute which permits a public utility to put a schedule of rates into effect under bond pending the PUC review. In practice, the RSA allows the utility to raise rates if the PUC has not completed its hearing and made a decision within six months. If it's later found that the imposed rate increase was too high the utility must refund the difference. The utility must post a bond equal to the amount of the rate increase, as it waits. In January of 1987, it's true that Public Service asked for a 14% rate hike and sponsors of the bill and others agree that only 10% was needed, least an amount likely to that. An internal document confirmed this, that it's been argued essentially, that by allowing utility companies to go out, post bond and charge the money was an interest free loan from the consumers. That's just not fair. Any utility increase should first be approved by the Public Utilities Commission. This loop hole in the law allows a rate in-

crease, granted it maybe attractive, but it's an increase without Public Utilities Commission approval and really it has been cited as a loop hole by members of the PUC and it skirts regulatory controls. The potential for abuse is great. If a utility asks for a rate increase beyond its needs, the utility receives an interest free loan from the taxpayers. That isn't fair! The consumer should not be loaning their hard earned money to large utilities. If a utility asks for a rate hike, overcharges the consumers, it must pay back the consumer. There is fear that a utility due to financial problems maybe unable to repay the overcharge on time. The bottom line is, the PUC in very complex issues,, takes time to review and during the period, if it's more than six months, who should suffer financially? Should it be the consumer, the homeowner, the businessman, the elderly? The answer lies, in effect, who can afford it best, who can afford it least and who should bare the burden of the public utility? The consumer should not be expected to fork over an extra \$10 or \$15 a month. They are those who can afford it the least. Consumers should pay a fair rate, that's why we have the Public Utilities Commission, that's why we have a hearing process to ensure this. The Public Utilities are not in the open market, they are a sacrosanct type of business which forces competitiveness for fair rates. The PUC is the body we look to, to ensure this fairness. The utilities give up some flexibility in order to have this monopoly. The utilities give up some flexibility in order to have this protection that is offered by government. This is a difficult environment for the consumer to operate in, because they have no say. The burden to prove that rate increase is fair and it's the utility's responsibility. The consumer should not be expected to pay that rate increase in advance, when it may not be well deserved.

The other points are that the PUC supports this bill. The PUC has indicated a letter of support in part that says; "the nature of deciding rate cases has become so complex it is extremely difficult to decide any rate case within a six month period." Both partitioners and adversaries are continuously demonstrating to the commission, a desire to develop a very comprehensive record of the issues before us. Although comprehensive reviews are often time consuming and frequently extend beyond the six month period, they are essential to assure that the best interest to both the partitioner and his rate payers are fully protected. There's definitely a loophole in the law here that can cost the consumer tens of millions of dollars in advance of whether or not the rate is deserved or determined. It's an interest free loan from the consumers who don't know, they are unknowing participants in this free loan. You've been exposed to the killer bees in the hall and I thought we heard the apiary bill last week. The



people elected you, the people that are expected to pay these bills and they can ill afford to stand in the corridors today to buttonhole you and they don't even have orange badges. They've entrusted you with your vote to vote in their best interest and I hold out to you that your vote on this bill does nothing to impair the performance of any responsive utility, most have never used it nor never will use it. The lights won't go out. I'm assured that your phones won't be disconnected and it's just regrettable that you had to line up your ducks and votes against the consumer on this one. It's regrettable that you're trying to see that Redi-Kilowatt might prevail over our infamous Joe Six Pack. It's regrettable that the opinion of the Public Utilities Commission is overshadowed by the killer bills who have had Senators come up to me and say squeamishly, I can't go with you on this one. Well, that's too bad. I don't think there's a problem here and I urge that you vote on behalf of the electorate and not the electric, gas or the water interest in this issue. Thank you.

SENATOR DUPONT: Senator, you have a letter in your possession from the PUC saying they support this piece of legislation. During the hearing in Internal Affairs, that same letter was presented, but along with that both of the sponsors from the House said they had no faith in the PUC. I guess we asked the question, if you have no faith then you shouldn't wave the letter in front of us because you question their judgement on one hand and on the other hand you say that you agree with them. Do you have any faith in the PUC's ability to regulate rates?

SENATOR PRESTON: Oh, we all have faith to some degree Senator. I had never, in total, approved of what the PUC does. In this case, though I may have little faith in the PUC at times, I have great faith when they have the courage to stand up once in a while with a response like this.

SENATOR DUPONT: You also mentioned a little bit earlier and I hate to be picky, but you said that this would be an interest free loan, it doesn't work that way. Just for clarification for the Senate's purpose; isn't it true that if the rate increase is larger than what is needed, then Public Service will probably be directed to pay interest as well as the overcharges?

SENATOR PRESTON: If larger and probably, you're correct.

SENATOR DUPONT: Isn't it also true, that if the increase is too low, then Public Service will have the ability to recoup it's interest charges, if it has to go out and borrow money?

SENATOR PRESTON: They certainly have the ability to recoup their interest charges, that's true.

SENATOR CHANDLER: Senator Preston, could you tell us when this law was first enacted?

SENATOR PRESTON: In 1911, when there were horses, buggies and a lot of oil lamps around, Senator

SENATOR CHANDLER: That's the year I was born.

SENATOR PRESTON: That was a good year Senator.

SENATOR KRASKER: I am a sponsor of this legislation and I will tell you there were two reasons why I put my name to this bill. First of all, it's a consumer bill. It benefits consumers and I'm in favor of benefitting consumers. Secondly it's good regulatory practice. The PUC supports this bill because they deal with these laws all the time and they recognize that it's good regulatory practice. I think there should always be a public hearing before changing rates and I would hope that you would agree. Because then the commission can determine what the rate should be and act accordingly. You've heard that the bonded rates go back to 1911, the birth year of Senator Chandler. In those days you really didn't have the complicated issues that you have today. You don't have hearings (tape change) on month after month, you don't have the number of interveners. Things have changed since 1911. It now takes months to go through the hearings, they go on for days. They're judicial hearings, they're not like legislative hearings. Regulatory proceedings often take a year in a complicated case. We all want there to be interveners on behalf of consumers. We have a consumer advocate. We want the consumer advocate to be able to participate. If you want this, as I want this, you can't decide in a hurry. There are other statutes that allow a temporary rate change while hearing a case, two other statutes that would enable a company to get temporary relief. This law is outdated, it no longer serves a proper purpose and I would urge you to support the motion ought to pass.

SENATOR FREESE: I rise in support of the majority report of inexpedient to legislate. The current law has in the past, and will continue to provide consumers with ample protection in the future. Any money which is over collected by the utility must be refunded. These funds, in the past, have been subject to payment plus interest. It makes no sense to me to pass a punitive piece of legislation and that is what I believe this is. It is important to remember that while

this bill is aimed at the Public Service of New Hampshire, it will affect all utilities. Perhaps a better, more common sense approach would be to examine the statute and evaluate its performance over the years and not just this isolated case. The fact of the matter is if the law has functioned well, it should not be totally eliminated because of a group of people that believe there might be a problem.

Let's look for a moment at the records. The proponents of this bill claim that the current statute, which allows bonded rates, has been abused, but that is simply not the case. I fail to see any fast abuse in the current situation with Public Service of New Hampshire. It's just a fluke. The real problem is that Congress passed the new tax bill after PSNH filed for its rate increase. The tax law changed the cause and caused a reduction in the company's federal taxes, thereby lowering their acquired revenue. However, unless the PUC steps in and sets temporary rates, the utility can only collect under the bond exactly what it filed for initially. That is why the company went ahead with the original bonded increase. The company began collecting the higher rate, with the knowledge that any money uncollected would be subject to repayment under the condition set by the PUC under the current law. The Senate oughtn't legislate as a reaction to any single event. There are many utilities in this state, other than the PUC, that would be affected by this legislation, as I previously mentioned. If HB 707 passes, utilities will be forced to seek temporary rates at the beginning of each new rate case. Temporary rates permit the utility to get retroactive adjustments. Utilities will be forced to seek temporary rates in each rate case, because the PUC will no longer be required to decide rate requests within the six month period set forth in the bonded rate statute, which HB 707 repeals. I hope you will support the majority of the committee, inexpedient to legislate.

SENATOR PRESTON: Senator, were you privy of the letter from the Public Utilities Commission?

SENATOR FREESE: I saw the letter on, I believe, Senator Dupont's desk.

SENATOR PRESTON: But you're aware that they would be in for rate increases right after other increases were granted or something to that effect? Is that what you just said?

SENATOR FREESE: I don't remember specifically saying that.

SENATOR PRESTON: But you're aware, are you Senator, that there are statutes for emergency and temporary rates?

SENATOR FREESE: Yes, I am.

SENATOR PRESTON: That will still be on the books?

SENATOR FREESE: Yes, I am, but I do believe that they are not as effective as the one that bonds the utility to pay back any overpayment with interest.

SENATOR DUPONT: Senator Preston, I want to make sure that the Senate has all the information that's necessary to vote on this important bill. You just alluded to the fact that a temporary rate statute is just as effective as bonded rate, but is it not true that the PUC would have to hold a hearing before granting a temporary rate and may, in fact, disallow any rate increase under the temporary rate?

SENATOR PRESTON: What you heard isn't what I said, Senator. I just asked Senator Freese if he was aware that there were statutes that allowed for temporary rates. I didn't compare them to the bonded free loans or anything.

Senator Disnard requested Roll Call.

Senator Preston seconded.

Those in favor: Senators, Heath, Disnard, Blaisdell, Pressly, Nelson, Stephen, St. Jean, Preston and Krasker.

Those opposed: Senators, Bond, Hounsell, Freese, Hough, Dupont, Chandler, Roberge, White, Charbonneau, McLane, Podles, Johnson, Bartlett, Torr and Delahunty.

9 Yeas

15 Nays

Motion failed.

Senator Dupont moved Inexpedient to Legislate.

Adopted.

HB 244-FN-A, Establishing a study committee to review existing fire laws. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: HB 244-FN establishes a fire law study committee to study the existing fire laws pertaining to fire preven-

tion, training and control subject to those in RSA 224. The committee looked at this bill and recommended ought to pass and I would appreciate your support.

Adopted. Ordered to Third Reading.

HB 37, Relative to the emergency management act. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This legislation changes civil defense department of emergency management to more reflect its real role. Most states have gone in this direction and it's little function change, but it modernizes their role officially.

Adopted. Ordered to Third Reading.

HB 107-FN, Relative to sunset review of the department of revenue administration - community services. Ought to Pass with Amendment. Senator Roberge for the Committee.

Senator Roberge moved to recommit.

SENATOR ROBERGE: HB 107-FN is a sunset bill that has to do with the department of revenue administration and the committee asked that it be recommitted to committee.

Adopted.

HB 108-FN, Relative to sunset review of the department of revenue administration - revenue collection, and relative to certain functions of the department of revenue administration. Ought to Pass. Senator Chandler for the Committee.

Senator Chandler moved to recommit.

SENATOR CHANDLER: The committee recommends this bill ought to pass, but we found out that there is another bill that has similar language to it. Therefore, the committee would like to move that the bill be recommitted.

Adopted.

HB 248, Allowing the expulsion of unruly persons from horse and dog racetrack grounds. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: We had a good hearing on this bill. The committee agreed with the bill that the owners of dog tracks should



be able to put out of the grounds people that were doing things that were not right or causing a disturbance. We amended the bill and the amendment is on page 8. We amended it to increase the bill and to improve the bill and we put in, not only what the bill said, but we took the law as it is now and put both of them in to make the bill stronger. That's what the amendment is; we've made the bill a little bit stronger, gave them more authority and described just what was meant by the track, whether it was the enclosed area or whether it was the parking lot, and we included the whole area. It would allow the track officials to evict anybody that was causing trouble.

SENATOR ST. JEAN: Senator, wouldn't this be covered under existing laws on the books presently?

SENATOR CHANDLER: It is to a certain extent. There was some dispute in the existing law. It says that they have the right to eject anybody from the enclosure where a race track is held. That's the existing law. A case came up in Hinsdale where a fellow was doing something out in the parking area and they had him evicted. He sued them and he claimed that the parking lot was not part of the enclosure. That's what this bill does; it corrects that loophole.

SENATOR BOND: Senator Chandler, in light of our constitutional prohibition against ipso facto laws, can you explain why this effective date is January 1, 1987?

SENATOR CHANDLER: Well, I have a floor amendment that corrects that, that was a typing mistake on somebody's part.

#### AMENDMENT TO HB 248

Amend RSA 284:39 as inserted by section 1 of the bill by replacing it with the following:

##### 284:39 Rights of Licensee.

I. Any licensee under this chapter may refuse admission to or eject from the grounds or the enclosure of the racetrack where a licensed race or race meet is being held any person or persons whose conduct, in the sole judgment of the licensee, is inconsistent with the orderly and proper conduct of the race meet or is detrimental to the sport of racing, whether or not the offensive conduct is associated with gambling.

II. The phrase "grounds or the enclosure of the racetrack" means all real or personal property used by the licensee in the operation of the racetrack, including without limitation, the parking lots, grandstands, stables, barn areas, kennels, and buildings at the racetrack.

Amendment Adopted.

SENATOR CHANDLER: The further amendment, and I thank Senator Bond for bringing it to the attention of the Senate, changes the effective date from January 1, 1988. By that time, the racing season will be all over. So we have the amendment here. It hasn't been distributed because all it does is change the effective date and makes the bill effective upon passage.

Floor Amendment to HB 248

Amend RSA 284:39 as inserted by section 1 of the bill by replacing it with the following:

284:39 Rights of Licensee.

I. Any licensee under this chapter may refuse admission to or eject from the grounds or the enclosure of the racetrack where a licensed race or race meet is being held any person or persons whose conduct, in the sole judgment of the licensee, is inconsistent with the orderly and proper conduct of the race meet or is detrimental to the sport of racing, whether or not the offensive conduct is associated with gambling.

II. The phrase "grounds or the enclosure of the racetrack" means all real or personal property used by the licensee in the operation of the racetrack, including without limitation, the parking lots, grandstands, stables, barn areas, kennels, and buildings at the racetrack.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

Floor Amendment Adopted. Ordered to Third Reading.

HB 299-FN-A, Continuing pari-mutuel tax credits for dog races, and raising the limit therefor. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: The amendment to the bill is in the calendar. It makes it effective upon passage. The passage of HB 299 will enable the greyhound tracks in New Hampshire to continue to expand and make the investments necessary to remain competitive. There's no loss of revenue to the State of New Hampshire, in fact, there's a gain of about \$100,000 in revenue to the State of New Hampshire by the 8th race.

AMENDMENT TO HB 299-FN-A

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 316-FN-A, Permitting refunds for stamps destroyed after affixing to tobacco products. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill was requested by the department. It obviously has the support of the grocers. It allows the state to refund the purchase price of stamps that are on damaged or stale tobacco. It really legitimatizes the current practice.

Adopted. Ordered to Third Reading.

HB 515, Relative to liens in favor of home health care providers. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This is an important bill for the visiting nurses associations and other home health care providers. It provides to them a privilege which has been extended to hospitals and is available to hospitals now. That is in a case where they go in and someone has been injured. They're not covered by workman's compensation; they have a lien on the payment in case that person goes to court and receives a large settlement. It was put in at the request of Representative Foster and the Director of Visiting Nurse.

Adopted. Ordered to Third Reading.

HB 329-A, Relative to estimated tax payments for railroads and public utilities. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill changes the language to conform with the tax year. They used to have to estimate the tax before the tax year. It also instills a \$200 minimum before filing for railroads and utilities.

Adopted. Ordered to Third Reading.

SENATOR PRESTON: (Rule 44) Last week when we were debating big money bills, particularly the land trust, I alluded to the fact and disappointment that we had not addressed what had been something very close to the Senate's heart. Senator Podles and myself have served on a special committee regarding child abuse. Donn Tibbetts and the Union Leader picked up upon the fact that how shameful it

was that we debated bills for ten, fifty million dollars and that we only came up with a small amount of money, maybe two-thirds that was raised by the State Senate. I bring to your attention an article that is on your desk, "Can you spare a dollar". I'm going to read this for the record, it says "at any rate we sent a small check in the mail to the trust fund for the prevention of child abuse and neglect in care of the attorney general in Concord. The reason we mention it is because we're putting the bite on you to do the same right now. We think it's absolutely embarrassing that the fund created last year has received only \$3,551 from the private sector. There's a potential of the State giving the fund \$500,000 if \$500,000 can be raised in the private sector by June 30th of 1989. You are called upon for all kinds of donations and each family has plenty of demands upon its money, so we're only asking that you send one dollar, but do it today. The point is, if every resident of this great state of ours responded with a dollar we'd have a million, plus a matching \$500,000 from the State. We think it's worth a buck to try and help some youngsters and just use the address above. If you want to send \$50, don't let me stop you and thanks from a lot of nameless, but important youngsters" I'm suggesting to you today that we follow up in this suggestion and the democrats have never been known to pass the buck, but we're going to start today. I hope the republicans will join in and we'll challenge the House. I've heard support from two newspapers that will make this approach statewide and use, if we will. This is an ad to see if we can raise the half million dollars for the child abuse fund. Here's the first buck and if you'll go to every newspaper in your area, maybe we can raise that half a million dollars.

#### ENROLLED BILLS AMENDMENTS

HB 116-FN, Relative to sunset review of funeral directors and embalmers board.

Senator Chandler: This amendment updates a reference.

Amend the bill by replacing line 10 and 11 on page 2 with the following:

department of health and (welfare) human services, or his designee, shall serve as a non-voting secretary of the board.

Adopted.

HB 609-FN, Relative to the New Hampshire National Guard.

Senator Chandler: This amendment adds current statutory language that was inadvertently omitted from the bill.

Amend lines 12-16 of page 1 by replacing them with the following:

II. A person sentenced to confinement or ordered held prior to or during trial may be committed by appropriate process under the hand of the military judge or summary court officer to any jail or house of correction to which such process is directed shall receive and detain the prisoner in the same manner as if the prisoner

Adopted.

SB 235-FN, Relative to municipal and county bonds.

Senator Chandler: This amendment corrects typographical errors in sections 1 and 2 of the bill.

Amend the bill by replacing line 7 on page 2 with the following:

neither smaller in amount nor later in time than the installments which were

Amend the bill by replacing line 2 on page 4 with the following:

prior to the date or dates on which the refunded bonds are paid, and the

Adopted.

HB 644, Relative to zoning exemptions for certain utility structures.

Senator Chandler: This amendment corrects a citation in section 1 of the bill.

Amend the bill by replacing line 24 on page 2 with the following:

362-A:1-a, X, and cogeneration facilities, as defined in RSA 362-A:1-a, I,

Adopted.

## RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the



present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 16, 1987 at 1:00 p.m.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

HB 656-FN, Relative to cruelty to animals.

HB 654-FN, Relative to dogs and cats.

HB 71, Relative to the fiscal note process.

HB 227, Requiring notification of late payments by subcontractors to unions.

HB 180-FN, Establishing a study committee to examine the publication and distribution of session laws.

HB 132-FN, Relative to sunset review of the state liquor commission - office of the commissioner/regulation.

HB 131-FN, Relative to sunset review of the state liquor commission - office of the commissioner/administration.

HB 134-FN, Relative to sunset review of state liquor commission - warehouse.

HB 703-FN, Relative to the board of auctioneers.

HB 244-FN-A, Establishing a study committee to review existing fire laws.

HB 37, Relative to the emergency management act.

HB 248, An act allowing the expulsion of unruly persons from horse and dog racetrack grounds.

HB 299-FN-A, An act continuing pari-mutuel tax credits for dog races, and raising the limit therefor.

HB 316-FN-A, An act permitting refunds for stamps destroyed after affixing to tobacco products.

HB 515, An act relative to liens in favor of home health care providers.

HB 329-A, An act relative to estimated tax payments for railroads and public utilities.

Senator Dupont moved to adjourn until Thursday, April 16, 1987 at 1:00 p.m.

Adopted.

Adjourned.

## *Thursday, April 16, 1987*

Senate met at 1:00 p.m.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, You know our necessities even before we ask. Make us worthy of whatsoever You bestow upon us. Sanctify us, as we make our personal pilgrimages this Holy Week. See if there be any sorrow like my sorrow which was done unto me! May we all share in the Joy of the Day of the Resurrection! Have a Happy Easter!

Amen

Senator St. Jean led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

#### HOUSE MESSAGE

#### HOUSE CONCURS

SB 101, Relative to political campaign contributions by state employees.

SB 195-FN, Relative to nonprofit housing projects and the Senior Citizens Housing Development Corporation of Claremont.

SB 218, Relative to clean indoor air in restaurants.

#### HOUSE CONCURS WITH SENATE AMENDMENTS

HB 547, Relative to medicaid fraud and patient abuse.

HB 435-FN, Creating a committee to study head injuries in New Hampshire.

HB 146-FN, Relative to sunset review of department of Health and Human Services - office of the commissioner.

HB 541-FN, Relative to developmentally disabled persons.

HB 545, Establishing a task force on homelessness.

HB 213, Relative to guardians for minors and the correction of statutory references for certain appeals.

HB 95, Relative to hunting accidents.

#### HOUSE RE-REFERRED TO COMMITTEE

SB 170-FN, Relative to licensure of mental health professionals.

#### HOUSE REFUSES TO CONCUR

SB 186-FN, Establishing a current use assessment study committee.

SB 19, Relative to the liability of a trapper for an unlicensed dog and trapper's report of catch.

SB 159, Relative to the regulation of gasoline franchises.

SCR 2, Applying to the Congress of the United States to call a convention to propose an amendment to protect the lives of the unborn.

SB 77-FN, Enabling certain municipal bodies to participate in the joint promotional advertising program.

SB 24, Prohibiting abortions in the third trimester of pregnancy.

SB 25, Establishing that human life begins at conception.

SB 124-FN, Prohibiting abortions performed on certain minors without parental consent.

#### HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SB 234-FN, Authorizing the commissioner of health and human services to transfer authority for operation of medical assistance programs.

Senator Krasker moved to concur.

Adopted.

SB 172, Regulating the taking of certain wildflowers and plants in New Hampshire.

Senator Hounsell moved to concur.

Adopted.

### NOTICE OF RECONSIDERATION

Senator Johnson served notice of reconsideration on HB 707, Relative to the implementation of public utility rate schedules under bond.

### COMMITTEE REPORTS

HB 462-FN, To provide New Hampshire Purple Heart recipients with special commemorative license plates. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This particular piece of legislation would allow the use of veterans plates as we now see them, upon which would be affixed a Purple Heart logo. This is no freebee for the Purple Heart veteran populations that are not totally disabled. There is nothing to change that statute; they will pay for the plates; there will be no special parking places; there will be no special privileges other than the recognition, well deserved, of what these veterans have done for their country. This is a real opportunity, in my mind, to do something for a very special segment of our population and those who served in World Wars and Korean/Vietnam conflicts. It is a segment of our population that is rapidly diminishing; 60% of the Purple Heart holders of WWII, as I understand, are now deceased. Since the beginning of the first President George Washington awarding the first Purple Heart, there have been 670,000 of these Purple Hearts issued. I think it is a very special opportunity for us to do something for some special people and I urge your unanimous support on the floor of the Senate today.

SENATOR BLAISDELL: I'm very proud to be a sponsor of this bill. I've had my name on many pieces of Legislation, but I don't think anything any finer than this one here. It was about a year ago today that I heard one of the finest speeches that I've ever heard on

this Senate floor given by Senator Preston. That was after the bombing of Libya and what happened to our people and our boys who were not allowed to cross over different countries' boundaries. I have a special thought on this. My father was a Purple Heart Veteran who no longer is with us. He died when he was very young because of the wounds he had got in WWI. I stand here very proud in having my name on this bill and in memory of one who I think so much of, my father, and one who had a Purple Heart presented to him, because he defended his country and I am very proud of that.

Adopted. Ordered to Third Reading.

HB 600-FN, Relative to OHRV fees. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: I believe this was a unanimous hearing in that there was no dissension that I recall on this. It is pretty much a perfunctory updating of the fees system.

Adopted. Ordered to Third Reading.

HB 686-FN, Relative to farm plates. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: HB 686-FN is really to address a law that we passed in 1985, pertaining to the term motor truck. It referred to vehicles over 18,000 lbs. What this does is to take the term motor truck out and just refer to a truck, tractor or semi-trailer for farm registration. There were refusals by registry office in Keene to allow appropriate registration. The amendment of the bill would just allow for immediate passage other than the sixty days as it is indicated on the bill.

#### AMENDMENT TO HB 686-FN

Amend section 2 of the bill by replacing it with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 260-FN-A, Providing for the reconstruction of a section of Prescott Road in the town of Raymond and making an appropriation therefor. Ought to Pass. Senator White for the Committee.

Senator White moved to recommit.



SENATOR WHITE: As you know, we have had a problem with floods in the State of New Hampshire and we feel that this would be a vehicle that we could use to take care of some of the flood damage that we have in New Hampshire. We are asking that this bill be recommitted to committee.

Adopted.

HB 327-A, Relative to funding for a pulp and paper technology program at the New Hampshire vocational-technical college at Berlin. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 327-A provides capital improvements for the pulp and paper technology program at the New Hampshire Vocational-Technical College at Berlin. The money is appropriated through general funds. The amount would be reduced by a minimum of \$115,000 and of any other donation. The any other donation is what the amendment refers to. The paper industry is at present a heavy pressure foreign industry in foreign competition. The paper industry is willing to provide their facilities for training, lectures and classes. The paper industry will be using the facilities at vocational-technical schools to retrain their personnel and also as a source for recruitment of new personnel. The funding of the program is included in HB 300; the committee recommends ought to pass.

SENATOR BOND: I would just like to add to what Senator Torr has said. This is a truly important bill to the North country. It provides an opportunity for our young people to develop their skills and find employment in the paper industry, which is our major employer. You will notice from what he said, that a \$115,000 has been committed by the paper industry already in terms of laboratory equipment and they're already providing their employees to help train in the program as it has been started in Berlin. I strongly urge your support of this.

SENATOR DUPONT: I rise in support of this bill. I was responsible last session in a committee of conference having this specific appropriation taken off, because it hadn't gone through a committee process. After having reviewed the bill and the work that they put in so far, I commend on their efforts and urge the Senate to pass this important bill.

#### AMENDMENT TO HB 327-A

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation. The sum of \$450,000 is hereby appropriated for the biennium ending June 30, 1989, to the department of postsecondary vocational-technical education for the purpose of establishing a pulp and paper technology program at the Berlin vocational-technical college. The funds appropriated by this act shall be used as follows: controlled environment laboratory facility, \$100,000; conversion of business education laboratory to general sciences laboratory, \$100,000; equipment and furnishings, \$150,000; and renovation of existing science laboratory, \$100,000. The governor is authorized to draw his warrant for said sum from any money in the treasury not otherwise appropriated. The department is authorized to receive \$115,400 plus any other sums from private sources. The amount appropriated from the general fund to the department for the purposes of this act shall be reduced by any sums received from private sources.

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 306, Limiting the horsepower of boat motors on Marchs Pond and Chalk Pond in the town of New Durham and prohibiting the use of jet skis on said ponds and on Pine River Pond in the town of Wakefield. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This bill was heard by the committee and does exactly what the analysis indicates. It establishes a maximum speed of horsepower limit to 5hp of any boat operating on Marchs Pond in the Town of New Durham. The selectmen were there and other interested residents of the town. There was no opposition of the bill and we urge your passage as recommended by the committee.

#### Amendment to HB 306

Amend RSA 486:27, III as inserted by section 1 of the bill by replacing it with the following:

III. Notwithstanding the provisions of paragraph I, the Easter Seals camp may operate a motorized boat in excess of 5 horsepower on Marchs Pond.

IV. Any person who violates this section shall be guilty of a violation.

Amend section 2 of the bill by replacing it with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 65, Restricting power boats on Lake Wicwas in the town of Meredith. Split Vote: Majority Inexpedient to Legislate Senator Freese for the Committee/Minority Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill has become some sort of a joke in this session. Lake Wicwas is spelled without a 'k'; it's a small lake, but there are those who love it. It is on the road to Meredith and I think it is important at this point for me to hold up a picture of Lake Wicwas because this is part of its charm and part of the problem. Lake Wicwas has several large islands around it, many indentations and bays and all of this part around it is marsh land. There are about less than half a mile of clear boating waters on Lake Wicwas. For sixteen years the residents of Lake Wicwas, the majority of residents, have been trying to limit the horsepower of boats on this lake to 10hp. Twice they have had public hearings under the set up that we now have; that they get the safety department to hold public hearings. They had majority votes at both of these hearings. The director of safety did not make a recommendation. So, now through Dean Dexter they have come to the legislature. This bill, Lake Wicwas, went through unanimously in the House Committee and came over on consent calendar and then the opposition woke up. Our one complaint about the opposition is that they send registered letters and if all of you know what a hassle it is to get down to the post office to get a registered letter. But I would contend at this point, that there are, by the clerk's notice, seventy-seven residents on Lake Wicwas. Fifty-three of them have signed a petition that I have here which ask that the boating be limited on Lake Wicwas. There were about ten people who never answered any petition; one lady in a nursing home that had signed a petition before and others; the main opposition comes from about twelve people. I believe that only one of those twelve resides in Senator Heath's district. I believe that you have received not only one, but at least three letters from each one of those oppositions, mostly registered mail. I contend that we are going to have to face the fact that you cannot always have a unanimous decision about what happens to a lake. But when you have such a clear majority, fifty-four out of seventy-seven; when you have the recommendation of the Meredith Conservation Society; when you have the Commission; when you have the recommendation of the Meredith Center Association; I believe that it is our responsibil-

ity, unless we want to carry Lake Wicwas on forever on our shoulders, to let the will of the majority rule. Our chairman in our committee said he has three criterias that he looks at when he looks at these numerous bills about ponds and lakes that are coming before us and have come before us, i.e. Chalk Pond that we just did. 1) Does the majority of the residents want this, 2) Do the selectmen and the officials in the town want this, and 3) Is it a matter of Loon Preservation. On Lake Wicwas there are, or have been, three nesting Loon sites and this is one of the reasons that the majority of the people want to have this bill passed. By the admission of Mr. Clammer, who is the person that I think most of you have heard from, says Lake Wicwas is a small lake, 350 acres. There is only one public access point. That isn't exactly true. There are two, but one of the public access points is limited to boats under 10hp. Because of its size, its limited accessibility and its proximity to Lakes Winnepesaukee and Winnesquam, Wicwas Lake is rarely used by anyone other than shorefront property owners. That comes from the opposition and so we have amended the bill to go back to the House bill which says that anyone who has a boat now on Lake Wicwas can keep that boat until the year 1996, so that we are not taking away the property rights of those people on Lake Wicwas, but we are complying with the rule of the majority and with the Senator in the district, who want the will of the majority heard and voted on by this Senate.

SENATOR DUPONT: Senator McLane, we have debated the issue of boat speeds and horsepower limits in all of the sessions so far. It seems like at least once a session anyway. I need to clarify something, can a 300 pound person, barefoot water ski behind a 10hp boat?

SENATOR MCLANE: No, but he could if it could go 35mph.

SENATOR DUPONT: Isn't it true that the Department of Safety has been up there and there is no problem on this lake?

SENATOR MCLANE: You shouldn't ask that question, because the man who is the Department of Safety person lives quite close to the lake. He comes in there twice a year; he puts in buoys on those places to keep them off the nesting Loons. He puts in his buoys and he never comes back again with a boat until fall, but his wife signed the petition.

SENATOR DUPONT: Are you indicating that there is not enough Department of Safety people to enforce boat speeds in the State of New Hampshire?

SENATOR MCLANE: That is why they have asked instead of a speed limit, a horsepower boat. They think it is easier to enforce.

SENATOR FREESE: There is another side of this issue, as represented by half of the Senate Development, Recreation and Environment Committee, which I would like to just take a few moments to relate to you at this time. When HB 65 was heard by the Senate Development, Recreation and Environment Committee on March 30, 1987, it was necessary to move the hearing to a larger room to accommodate the crowd. In my judgement, the sentiment at that hearing was overwhelmingly against the bill, not to restrict motors on Lake Wicwas in the Town of Meredith for 10hp. We have heard no proposed legislation this season that has created greater interest. It seems that the proponents of the bill had succeeded in quietly getting the legislation introduced into the House without notifying the Association Membership. Therefore, hardly no property owner from the Lake Wicwas area appeared against the bill when it was heard in the House. The result, a full blown hearing of several hours in the Senate, this time including the opponents. In spite of the split report, there's no questions in the mind of the three committee members, Senator Hounsell, Senator Preston and myself, that the bill should be voted inexpedient to legislate. If you have carefully read the letter sent to you by the Lake Wicwas Association members, you have a pretty good idea of what was said at the hearing and the feeling of most of the Wicwas front shore land owners. In case you have not read those letters or might have forgotten what they said, I would like to take a few minutes to tell you, so you will know why the three members of the Senate, which was a split vote, Senator Hounsell, Preston and Freese, are asking you to vote inexpedient to legislate. Many of those testifying said HB 65 was an unnecessary piece of legislation. That it would be totally ineffective in dealing with the problem that didn't exist. HB 65 is a combination of years of effort on the part of two long time Wicwas area summer residents, who are ardently opposed to power boating of any kind. Wicwas Lake is small; it is 350 acres. Because of its size and its limited accessibility, which, you have just heard from Senator McLane, is only two, and is approximately five miles away from Winnepesaukee and Lake Winnesquam. Because of that, it is rarely used for anything in the way of fast speed boats. The idea that anyone would trailer a large high speed boat to Wicwas Lake is ludicrous. To spend an hour launching the boat and retrieving the boat for a five minute ride. I would like to quote a few of the segments that were made at the hearing. "I am a year round resident of this area. I've rarely seen more than five or six boats of any description in use on the lake at any one time. There



are only six or seven large boats in use on Wicwas Lake. Mine is the largest, 14½ feet long with a 40 hp engine. I bought it for safety and comfort and because I have two small children and would not feel safe taking them out in a canoe or small boat that could easily tip over or fall out of. I have no great love for speed or engine noise, so 90% of the time when I'm using my boat, it is at anchor while we sun bathe and fish. A small boat would not accommodate us all at once. Last summer I used a total of 8 gallons of gas from April to October."

Another owner of a boat like mine has a bad back and cannot sit in a canoe or row boat or operate a 10 hp motor from behind. Boats such as these actually increase the safety of boaters, the larger boats. I have pulled them in more than once, a canoe, or row boat or sail boat, when the wind from an approaching storm made it impossible for the person to get back to shore. With undersized engines, a 10 hp larger boat will make more noise and produce larger wakes. The only instance of recklessness or reckless boating I have seen on Wicwas Lake involved a small row boat with an 8 to 10hp engine with the bow so far up in the air the operator couldn't possibly see where he was going. HB 65 will promote such behavior. A small hydroplane with a 10 hp engine could easily go faster than any boat in use at this time on Lake Wicwas. HB 65 fails on all accounts. It restricts everyone's right to enjoy recreation that it is perfectly safe. It penalizes everyone in an attempt to prevent behavior that does not exist. There are several young families of property owners on Lake Wicwas, that enjoy a fifteen or twenty minute ride behind a boat water skiing. What's a 10hp law going to do to help them? One daughter testified, her name was Denise Mercier, she was twelve years old and had lived on Lake Wicwas ever since she was two years old, canoeing, row boating and water skiing four or five times during the summer, behind their dad's boat. It can yield limitation to allow those boats on that lake, it does not help this youngster as she gets to be a teenager and into her young twenties. She will probably still enjoy water skiing at that age.

A property owner, Ronald Waterborough, said he was looking forward to returning to Lake Wicwas, and the lake is big enough for waterskiing. There is no safety problem, he says. He mentioned that the Department of Safety has had three hearings, not two, with the result that there is no safety problem on Lake Wicwas.

As late as last August 1986 the President of the Association, Jim Dumont called for a roll call vote of all members present who appeared on one or more lake front deeds as listed in the town of Mere-

dith, to support a Harris Larsen petition for a 10hp limit on Lake Wicwas. The results of that vote were 29 against and 24 in favor.

I would like to read you a letter from an inspector and lake patrol person, that has written at the request of one of the lake owners. "With regards to your phone call on my opinion to the boating traffic on Lake Wicwas, Meredith, New Hampshire. I worked for the last three summers for the State of New Hampshire, Department of Safety, Division of Marine Patrol as a Marine Patrol Officer. One of the lakes I patrol is Wicwas. I also place and remove the navigation aids in the lake. It is my personal opinion that Lake Wicwas is a very quiet lake and I've had no problems with power boats of any size. The exception being one minor registration infraction. I have lived directly across the street from the North end of the Lake for the past 17 years; have spent many hours on the lake in a canoe and have had no problems with power boats." We hope that you will support the committee split report of inexpedient to legislate.

SENATOR ST. JEAN: I rise in support of the pending amendment and I will tell you why. Quite frankly, this bill has been lobbied as much as the land trust, chiropractor bills and other bills of that nature. I will explain very briefly about why I'm voting this particular way. I quite frankly, and I don't want to offend anyone, don't particularly care about Lake Wicwas, much less getting letters and phone calls. There was one particular phone call that I received at 10:30 at night, from an individual out of Massachusetts telling me how I was to vote on this particular piece of legislation. He didn't suggest, he told me! The most frustrating part of the phone call was, I had to run down stairs to get the phone and I had popcorn going upstairs, but as I ran down and the guy was talking at length, the popcorn burnt. It really ruined the popcorn. I got this yahoo at the end of the line telling me how to vote. So, the long and the short of it is, I support Susan McLane in this piece of legislation and her particular amendment.

SENATOR DISNARD: Senator McLane, I'm not familiar with Wicwas, Marchs Pond or Chalk Pond. In terms of size, are they similar? The reason I ask the question, we just voted for 306 to limit the horsepower on two of those areas. Now we are discussing another way to limit it to 10hp. I want to know, would we be consistent if we voted for one and not the other?

SENATOR MCLANE: No, I don't think so. I think you ought to vote for both of them. The difference is, they are about the same

size. Chalk Pond is shallower and the difference is, there is nobody opposed on Chalk Pond, but the guy that burned the popcorn.

SENATOR WHITE: Senator St. Jean, would you believe I agree with you?

SENATOR ST. JEAN: Thank you Senator White, you've made my day.

SENATOR KRASKER: Senator St. Jean, would you believe the same individual called me at 10:25?

SENATOR ST. JEAN: I believe you.

SENATOR JOHNSON: Senator St. Jean, would you believe that I have now found one positive aspect of the April 3rd letter from the trust for New Hampshire lands that we discussed last week? I've found one positive aspect and that is that they didn't send those by registered mail.

SENATOR ST. JEAN: Yes.

SENATOR HEATH: With all due respect to Senator Freese, whose district represents probably the vast majority of people who would sell those boats, I rise in favor of this limitation as amended in the calendar with a 10 year grandfather clause, so that nobody who has one of these boats is really deprived of the use of their property. When you get down to the numbers, it would be a foolish politician who would go against the numbers in his own district, the vast majority of people want this legislation. The Meredith Center Association called me and they told me they support it. Selectmen had taken no position. The Conservation Commission, every member supports it. The petition that went to land owners, specifically to all of them, not the ones that had to be in a meeting that came out 29 to 24, which is almost a dead tie, but everyone of them that were notified at a 77, 53 supported it. Majority of the people want it. The ones that don't want it may have computers and the money to waste on registered mail and to harass people that are making popcorn, but those are not the numbers of the people involved. So, the Town Association wants it, the land owners by a vast majority want it, Conservation Commission wants it, how about the Reps? One Representative sponsored the bill and the other one, I talked to him the other day, he testified against it at the hearing, he said with the grandfather clause he could live very comfortably with it. As a Senator, being myself, I want it. This is a very unique lake, it is very

shallow and full of islands. When you get heavy power boats, in spite of the fact that these people who own them are apparently afraid to get into a small boats, it is wretched excess to drive on a 300 acre lake, dotted with islands in a power boat over 10 horsepower. It's the height of materialism and it's just incongruous when you see that kind of a boat on there and it turns up the bottom, it ruins the fishing because it takes the light out of the water, so that the material of growth on the bottom that the fish feed on dies; it disturbs the soil and causes erosion. You can have erosion under water believe it or not. This lake needs protection. It is very special. It's one of the most prettiest lakes you'll ever see. You can see it from Route 104, but if you get on the back side you see the mountains that come right down and some of the sharpest cliffs in the State of New Hampshire come right down through that lake. A person really ought to be ashamed having a heavy boat on this lake. I guess I don't have any sympathy for somebody who has a back ache and they feel they have to get into a Cris Craft with an inboard engine and a 40hp motor. I think they would probably have less back aches if they got out and paddled a canoe a little bit. Most of them have fears about falling out of a canoe, but they could walk across most of this lake because it's that shallow. I would really urge you to go with the bill ought to pass as amended, understanding that there is a grandfather clause that gives anybody who owns a boat the right to keep it and use it on that lake for 10 years in the future. As far as the marine patrol officer, he stated very clearly he wasn't representing the agency and he does have a vested interest if there were no power boats on any of the lakes, so your need for marine patrol officers would be reduced. We don't have enough to handle the one that we have and this limitation would take a lot of the problems off that lake and we could redistribute some of those marine patrol people until we get a sufficient number in the areas were they are really more needed. I just urge you to go with this for the people in Meredith, for the residents of the lake, for the lake itself. It's the environmentally sound thing to do, it's economically sound, and it's fair with the ten year grandfather clause.

#### Amendment to HB 65

Amend the bill by striking out all after the enacting clause and replacing it with the following:

1 New Section; Lake Wicwas. Amend RSA 486 by inserting after section 26 the following new section:

486:27 Lake Wicwas. No person shall use or operate any power boat equipped with any type of power motor in excess of 10 horsepower upon Lake Wicwas in the town of Meredith; provided, however, that Lake Wicwas lakefront owners and their immediate families who have operated a boat powered with a motor in excess of 10 horsepower on Lake Wicwas during the summer of 1986 shall have the non-transferable right to continue operation of the same boat and motor until January 1, 1996. Any person who violates this section shall be guilty of a violation.

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted.

Question: Ordered to Third Reading.

Division vote:	13 Yeas	10 Nays
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Adopted.

HB 32, Relative to the election of the chairman of the university system study committee. Inexpedient to Legislate. Senator Nelson for the Committee.

SENATOR NELSON: The committee voted this four to nothing inexpedient to legislate and the committee will remain as is and the chair will rotate biennially.

Adopted.

HB 158-FN, Relative to sunset review of the department of education - adult basic education. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: This bill simply is related to the sunset for profits of the Department of Education - adult basic education, just renewing it for six years.

Adopted. Ordered to Third Reading.

HB 177-FN, Relative to sunset review of veterinary/medical/optometric education program and amending such program. Ought to Pass with Amendment. Senator Disnard for the Committee.

SENATOR DISNARD: HB 177-FN an act relative to sunset review of veterinary/medical/optometric education program, all this bill does is reinstate the word optometric with the house version. If



somebody wants an explanation I will be happy to explain it. It was a unanimous decision of the education committee.

Amendment to HB 177-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to sunset review of veterinary/  
medical/optometric education  
program.

Amend the bill by replacing all after the enacting clause with the following:

1 Sunset; Veterinary/Medical/Optometric Education Program Renewed. Veterinary/medical/optometric education program is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1991, in conformity with RSA 17-G:5, II, subject to RSA 17-G.

2 Effect of Later Enactments. Passage of this act renewing veterinary/medical/optometric education program shall not limit any subsequent legislative action affecting this agency or program. The general court shall retain its full power to make amendments to or to terminate veterinary/medical/optometric education program, pursuant to RSA 17-G:9.

3 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 159-FN, Relative to sunset review of the board of education - driver education. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: HB 159-FN is relative to the sunset review of the Board of Education - driver education. As the bill came to us from the House it had been amended to require that the instructors in private driver educational programs meet the same teaching qualifications as those in public education programs. A representative of the driver schools association testified that the private driver schools concurred with this change in the law. We urge your support.

Adopted. Ordered to Third Reading.

HB 160-FN, Relative to sunset review of postsecondary education commission veterans education service and repealing the advisory committee. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: HB 160-FN renews the postsecondary education commission veterans education service and repeals the advisory committee which the House found redundant and we concurred. We urge your support.

Adopted. Ordered to Third Reading.

HB 167-FN, Relative to sunset review of the department of postsecondary vocational-technical education. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: HB 167-FN has an amendment which appears on page 9 of your calendar today. The bill was sent over from the House, reflects a fair amount of frustration by the House Education Committee. They attempted to take out that frustration in this piece of legislation. The Senate Education Committee, in reviewing that, did not feel that that was appropriate to this piece of legislation and has therefore deleted certain sections of the bill. In addition section five of the bill on page 3, becomes a new section 3 now and does change the date for the requirement that a marketing plan be developed from October 15, 1987 to April 15, 1988. That is the extent of the amendment adopted by the Senate Education Committee. There was no dissent within the committee and the committee urges ought to pass with amendment.

#### Amendment to HB 167-FN

Amend the bill by replacing all after section 2 with the following:

3 Marketing Plan. The board of governors of the department of postsecondary vocational-technical education shall complete the development of their system-wide marketing plan by April 15, 1988, and shall submit a copy of this plan to the chairs of the house education committee, and senate education committee, the speaker of the house, the president of the senate, and the governor.

4 New Section; Annual Report and Appearance. Amend RSA 188-F by inserting after section 14 the following new section:

188-F:14-a Annual Report and Review.

1. The commissioners of the departments of education and postsecondary vocational-technical education shall issue a joint report annually on the proposed use and distribution of federal vocational

funds. Such report shall be completed by October 15 of each year. A copy of this report shall be delivered to the chairs of the house education committee, and senate education committee, the speaker of the house, president of the senate, and the governor.

II. Each year the commissioner of postsecondary vocational-technical education, as well as one representative from the board of governors, and the president of each vocational-technical institution shall appear before the house appropriations committee and the senate finance committee to review the department's programs, cost analysis, and revenue projections.

5 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 249-FN, Relative to the shore frontage and acreage at the Laconia State School and training center. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This bill was heard by the Development, Recreation & Environment Committee and all the testimonies were favorable and the committee voted unanimously ought to pass. The bill requires that 200 acres out of 400 and approximately 3,500 feet of shore line on Lake Winnisquam be retained and preserved on a permanent basis for the State and its natural botanical and geological state. Nothing in the Legislation prohibits the Laconia State School and Training Center from utilizing the 200 acres and the approximately 3,500 feet of shore line for the purposes of the school rehabilitation program, provided however that 200 acres of the shore line shall not be developed or used. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

HB 488, Relative to the department of revenue administration. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: This bill provides that small business corporations shall report certain information to the Department of Revenue Administration, rather than the Director of Interest and Dividends. I hope you'll understand why there isn't any position; the position does not exist of Director of Interest and Dividends.

Adopted. Ordered to Third Reading.

HB 46, Relative to the state radiation advisory committee. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: This bill is due to an oversight in recodification. This information was passed last year for staggered terms, and recodification was left out. It was explained at the committee hearing that there was a need staggered terms because of the technical nature of the information that keeps advancing each year. The committee voted unanimously in favor of this.

Adopted. Ordered to Third Reading.

HB 88-FN, Relative to the pesticide control board; rulemaking hearing, exemptions, and definitions. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: This bill simply clarifies the definition of pesticide, especially in relation of janitorial services. This bill will allow you to have your own people without a pesticide license. The committee was in favor of it.

Adopted. Ordered to Third Reading.

HB 127-FN, Relative to sunset review of the board of veterinary examiners and relative to preliminary hearings. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This is a sunset bill, which renews for a period of six years the veterinary board of examiners. The amendment adopted through the sunset staff deals with those who are appointed to the board, will not be required by the Governor to appoint one of the three individuals that are nominated.

#### AMENDMENT TO HB 127-FN

Amend the bill by replacing section 4 with the following:

4 Vacancy on Board. Amend RSA 332-B:3, II to read as follows:

II. When a vacancy has occurred, or is due to occur in a veterinary position on the board, the New Hampshire Veterinary Medical Association [shall] may nominate 3 qualified persons and forward the nominations to the governor. The governor may make appointments from those nominated by the association, but shall not be required to appoint one of those so nominated.

5 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 145-FN, Relative to sunset review of the New Hampshire port authority. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This is another sunset bill, but what the amendment does on this particular bill is extend the port authority for a period of two years. It was the feeling of the committee that the current situation down at the port authority bears a close scrutiny against the contract with the Clark Company. We felt we would extend them for a period of two years rather than six years.

#### AMENDMENT TO HB 145-FN

Amend section 1 of the bill by replacing it with the following:

1 Sunset; New Hampshire Port Authority Renewed. New Hampshire port authority, PAU 0402, is hereby renewed to comply with RSA 17-G. The agency or program shall terminate on July 1, 1989, subject to RSA 17-G.

Amendment Adopted. Ordered to Third Reading.

HB 455, Relative to criminal mischief. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: This was a bill that was put in at the request of the Department of Justice. Bruce Mohl and the Attorney General came over in strong support for the bill. Basically it has a class B felony instead of a misdemeanor. It's really just an enabling piece of legislation because they may be segregated. The amendment merely changes the effective date from January 1, 1988 to July 1, 1987. We urge you to pass this good piece of legislation.

#### AMENDMENT TO HB 455

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect July 1, 1987.

Amendment Adopted. Ordered to Third Reading.

HB 474-FN, Relative to solicitations for charitable purposes. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 474-FN was introduced at the request of the Attorney General of the Charitable Trust. The bill provides extensive regulation of charities by the Attorney General. It requires



any professional fund raiser to register with the Attorney General's office. He's to be bonded in the event of default, fraud or simply disappearing from the State. There are reporting results of the raising of the campaigns. He must report the results. It also has a provision of turning funds over to the Charitable in a timely fashion. It has extensive record keeping, it has disclosure requirements and finally provides for an appropriate penalties and revocation of registration. Sixteen States have enacted this legislation including Connecticut and Massachusetts. This bill has the support from many large charities in New Hampshire like the Lung Association of America, the Cancer Association of New Hampshire and the New Hampshire Jaycees. The amendment calls for the effective date to be sixty days after passage. The committee recommends ought to pass with amendment.

SENATOR HEATH: Senator Podles, the common practice in my area with regards to a family or individual in trouble, whether it's the police or fire company, they often set up a sort of instantaneous charity and they usually leave a little canister around at the local grocery stores and so on. Are these people going to have to go through with it, or is there a break point in terms of registering, because the paper work involved in that would discourage that practice which I think is a worthy practice?

SENATOR PODLES: This is a break point. In fact one of the questions that was asked in committee was, what about the girl scouts? They said, no that would not effect the girl scouts at all. I would assume that what you are saying would hold true.

SENATOR HEATH: I'm assuming that the reason that it wouldn't affect the girl scouts is because the girl scouts is specifically not a charitable organization, it's a public service organization?

SENATOR PODLES: This is for professional fund raisers for charities.

SENATOR HEATH: You feel comfortable with that?

SENATOR PODLES: Yes I do.

#### AMENDMENT TO HB 474-FN

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

HCR 4, Resolution relative to a National Housing Partnership Act. Inexpedient to Legislate. Senator Roberge for the Committee.

SENATOR ROBERGE: HCR 4 calls upon the United States for Congress to enact a National Housing Partnership Act. Representatives of Governor Dukakis from Massachusetts and Mayor Flynn from Boston came up and testified in favor of this House Concurrent Resolution. They felt that it had been helpful in Massachusetts, particularly in Boston. The committee felt that just because something was favorable to Boston did not have any impact on New Hampshire and so we decided that this particular measure was not needed at this time.

Senator Preston moved to substitute Ought To Pass.

SENATOR PRESTON: I attended the hearing and left before there was executive action on this bill and I don't say that in a critical fashion, but I also didn't like listening to people from out of State for an hour before our committees. That's really not the point regarding this House Concurrent Resolution, if you take one moment to look at it, it goes on to say that in this Country there is a category of homeless people and that the ability to find reasonable housing where ownership or rental is becoming difficult; that there is a need for stability and housing; that there is a need to address this on a State and National level, so that people, some with meaningful jobs, are able to obtain a true and proper measure of self-realization by owning and renting decent housing. It encourages the Congress to enact a National Housing Partnership Act which would foster a commitment of both public and private interest, business and Government towards a concerned and unified effort involving the production and rehabilitation of affordable housing in America. How can you vote against anything like that? That's impossible. By voting against this and going on record saying you oppose the Government and/or private enterprise from addressing the low income housing or saying there is no housing problem, it's got to be united so it ought to pass or I wish you would stand up and explain to me how you can vote against it.

SENATOR PODLES: HCR 4 urges Congress to enact a National Housing Partnership Act to foster efforts both public and private and to produce and restore affordable housing Nationwide. HB 545 establishes a task force on homelessness, which takes care of this,

and also SB 195 regarding non-profit housing and senior citizen housing development in Claremont address this problem. I would urge you to vote inexpedient to legislate.

SENATOR CHANDLER: I think the vote on the committee was about four to nothing as Senate Preston said he wasn't there at the time of the executive session. I think this is a bill that was kind of duplicating some other legislation and it is just a concurrent resolution calling for the establishment of another bureaucracy which would probably cost millions of dollars and create a lot of bureaucratic jobs. I don't know how effective that would be in accomplishing what it purports to do. So those of us who have voted on the committee thought it was absolutely an unnecessary resolution.

SENATOR MCLANE: I rise in strong support of this resolution and I am surprised that Senator Chandler doesn't think that resolutions are important. I think they are. I visited the other day, you can see it practically from your window out here, the elderly housing that's over here that is eight stories high. It is full of mostly little old ladies, because we happen to live longer, we live purer and they are so happy there. The place is warm, friendly and I cannot believe that this Senate isn't in favor of more housing for the elderly. We have been looking at the AFDC payments, we offered them \$142.00 a month. Where in this State can you find a place to live for \$142.00 a month? We need housing more than anything in this State. I think to turn this resolution down sends a message that I would not like to send to Congress.

SENATOR PRESTON: Senator Podles, do I understand that you are encouraging your fellow Senators to vote against in calling upon Congress to join the Partnership to address low income housing?

SENATOR PODLES: As far as New Hampshire is concerned, I think that it is taking care of all of this that you are asking for in this resolution by HB 545 and also SB 195.

SENATOR PRESTON: What was the vote in Judiciary?

SENATOR PODLES: Four to one.

SENATOR PRESTON: Was it four Republicans and one Democrat?

SENATOR PODLES: Four Republicans and Senator Nelson was the only one that opposed it.

SENATOR FREESE: Senator McLane, I did not hear Senator Chandler say that he did not believe in what the bill said. I understood him to say that he thought the bill was unnecessary because there were other bills doing the same thing?

SENATOR MCLANE: I believe that what Senator Chandler said was that he didn't think this resolution was necessary because it was just a resolution. Far be it from us to put words in Senator Chandler's mouth.

SENATOR BLAISDELL: I rise in support of Senator Preston's motion. I realize that we have duplicating bills. I couldn't care less! I think that we should send another strong message to any place that we can to say that we need housing for our people. I see nothing wrong with duplicating it; send them another message because it seems that nobody is listening. Let's vote for the motion of ought to pass.

SENATOR HOUNSELL: When I look at this thing, I see it as a slick little move by the democrats to put into place a position that is clearly against Reagan policy. They have in fact brought a partisan issue here and I would point out that the word "will" on line 2, page 13 has been the downfall of the democratic party for years and I would suggest that if you pass it to amend that word to be the word "might" foster commitments. For us to consider that the Government is going to be able to solve these problems, is to believe that it is the Government's responsibility to provide for the people and not the people's responsibility to provide for the Government. So, I rise in opposition of the motion before us.

SENATOR WHITE: Senator McLane, back in 1983 you served on the Capital Budget. At that time did the Pleasantview Nursing Home or whatever it was, come before that Committee?

SENATOR MCLANE: It was when I was on the committee that it was put up for bid.

SENATOR WHITE: Did you vote to put that out to bid?

SENATOR MCLANE: Yes, it was the recommendation of the Governor at that time.

SENATOR WHITE: On retrospect, don't you think it would have been much better to keep that in the State and use that for low cost housing and we would have had an enormous place right here in

Concord, that would have taken care of an enormous amount of the homeless that we have in this State of New Hampshire?

SENATOR MCLANE: As I remember, the budget that you approved in the session before made it incumbent on the Capital Space Committee to come up with \$4 million dollars in order to balance the budget by selling property. That budget specified in it that that home would be sold.

SENATOR WHITE: Do you agree that that would have made a good place for the homeless and for the low income?

SENATOR MCLANE: It was all fixed up and being used for the New Hampshire Hospital at the time. In order to balance the budget it was specified in the budget that that place be sold.

SENATOR HOUGH: I rise in support of this resolution and so that there will be no misunderstanding, Senator Hounsell, you'll see my colleague Senator McLane and Senator Hough as members of the majority and the Republican party sponsoring this resolution, so very definitely this is not a partisan issue. Senators McLane, myself and the late Hugh Gallan in the early 70's worked very diligently in establishing housing programs and providing low rent housing in certain areas of the State and I think to the extent that we have been successful in providing accommodations for the New Hampshire people in the last many years and that this resolution is a strong indication and we wish to continue in partnership with the Federal Government. There isn't a day goes by that people in my district, which is attracting a great number of elderly people, in finding they no longer can remain in this area and remain in their homes. New Hampshire is witnessing a great deal of success. With success comes tremendous demands and those people who are living on fixed incomes are having to find other places to live. There is nothing wrong with this resolution. It is consistent with public policy in the State of New Hampshire. It is consistent with a philosophy of the last many Republican administrations and I think that we should pass it. By no means should you consider this a partisan issue. It's a resolution that states New Hampshire Public Policy.

SENATOR PODLES: Senator Hounsell, would you believe that we had a Representative from Governor Dukakis's office and also a Representative from Mayor Flynn's office come to testify in favor of HCR 4?

SENATOR HOUNSELL: It doesn't surprise me a bit.



SENATOR MCLANE: Senator Hounsell, I am looking at the names on this resolution and looking at Representative Mildred Ingram and I wonder if you want to accuse that fine lady of being a slippery Democrat?

SENATOR HOUNSELL: I certainly don't and I certainly don't accuse you of being a slippery Democrat or Senator Hough of being a slick Democrat. I merely point out that the solution and just to correct the errors of your way because I know as the Assistant Whip of the Republican party, you are an important attribute to the Republican party and I ask that you might look at the word "will" and I would suggest to you that a proper GOP consideration might be to have that word "will" changed to "might". We have found historically that all these great expectations that we place upon social problems and ask the Congress to solve they have been unable to do so. If you want to pass this resolution at least put in the word "might" foster commitment because I'm not sure it will.

SENATOR DISNARD: Senator Hounsell, when I hear the word slick Democrats trying to downfall their spending money to help destitute the poor, I really have a concern. Would you believe most of the people that are sponsors of this bill are Republicans?

SENATOR HOUNSELL: I would also point out that the language or the solution of the resolution is something that has been consistent with a Democratic platform and I would ask you, sir, if you know where the prime sponsor might have gotten this information and this language.

SENATOR DISNARD: I assume it's done because of an interest to care for the poor and the destitute.

SENATOR PRESSLY: Senator Hounsell, you have a good point, you have focused on the language of the bill and it says will. But let us go a step farther. What will it do? It will foster a commitment towards an effort. Can you tell me what dollar value goes into fostering an effort or how many times have you seen that cost one single penny?

SENATOR HOUNSELL: If I understand your question and I'm going to take it as an opportunity to clarify my position. You have a very motive issue. You're not going to find Democrats nor Republicans who are opposed to trying to help the problem of the homeless. But what I am telling you, is that I find that it is misleading. It is historically incorrect that by having the United States Congress en-

act in National Housing Partnership Act, that we will foster commitment. What we will do, historically speaking, is we will set up bureaucracy; will get a lot of people fat salaries and we will not do anything for the homeless.

SENATOR PRESSLY: Would you believe that I believe that that is strictly your opinion?

SENATOR HOUNSELL: I'm hopeful that the people in my district elected me for that opinion.

SENATOR WHITE: Senator Hounsell, would you believe that it's not just your opinion, that this is another way to spend the taxpayers' money and that in the long run, I agree with on that?

SENATOR HOUNSELL: I do believe that that is also your opinion and I also would state that it has been that feelings of our President and the GOP Platform that that is their opinion.

SENATOR DUPONT: I rise to support the committee report of inexpedient to legislate and I certainly can't stand here and emphasize enough that I recognize the problems that exist in the State of New Hampshire relative to housing today. I think the real issue here is who is going to address the problem. Isn't this another situation where the Federal Government and Congress legislating from Washington about how we should handle the problem that can be best dealt by the State of New Hampshire. We've seen in the past, when the Federal Government gets involved, they bring their dollars in and they don't spend their dollars as wisely as we do here in New Hampshire and certainly not as frugally. What I would say is we are in a situation now where the Federal Government is starting to back off on funding. They are returning more programs to the States because they recognize that the States do a much better job. I just feel very, very strongly that this is a situation that the other bills which really address a local solution to the problem or a State solution to the problem are really the way to go. What were saying here today is send the problem off to Washington and hope they send us back some money. I urge the committee report of inexpedient to legislate be supported.

Senator Blaisdell requested Roll Call.

Senator Chandler seconded.

Those in favor: Senators Hough, Disnard, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Stephen, St. Jean, Preston and Krasker.

Those opposed: Senators Bond, Hounsell, Heath, Freese, Dupont, Chandler, Roberge, White, Podles, Johnson, Torr and Delahunty.

11 Yeas

12 Nays

Motion Lost

Question: Inexpedient to Legislate.

Adopted.

### INTRODUCTION OF GUESTS

Senator Joseph Biden, (Delaware) addressed the Senate.

### COMMITTEE REPORTS

HB 398, Relative to custody and support order. Interim Study. Senator Nelson for the Committee.

SENATOR NELSON: HB 398 is being reported out interim study. This is the third session that we're grappled with this complex issue and once again we are recommending interim study. The bill purports to codify current New Hampshire case law based on current New Hampshire statutes covering child custody and support orders. The bill however does not attain its goals. Bear in mind that the standard in New Hampshire for supporting custody of a child is already set forth in our statutes RSA 458:17 and at the focus of any decision of this type is "what is the best interest of the child". There are many flaws with the bill, but the bill was reported out four to nothing interim study.

Adopted.

HB 11, Relative to the number of library trustees. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This simply changes the number from an even number to an odd number, so that the library trustees in any towns do not get deadlocked in an issue that they can't resolve.

Adopted. Ordered to Third Reading.

HB 13, To revive the charter of the Chocorua Chapel Association, a nonprofit organization. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: I promised the committee that I would tell you briefly the legend of this mountain. There was an Indian family that had a youngster and a white family that lived in the area that had a youngster and they were good friends. The Indian family was going some place and they left the youngster with the anglo family and at the time that he was in their charge, he either got deathly sick or, if you listen to the other stories, he ate some lye and then he passed on. When the Indian returned, he found that his son died and he thought that it was caused by the family intentionally. The father of the Indian boy and the father of the white boy got into a brawl and the Indian ended up being chased up Mt. Chocorua on the side which is a matterhorn and the only one in New Hampshire, as far as I know, which is a very steep mountain. At the top of Chocorua he put a curse on the valley, that might be the reason that we need money for the sewer in Conway and some other problems up there like the bypass. Anyway, he put a curse on the valley and leaped to his death at the top of Mt. Chocorua.

This is an act to revive the charter of an association. We looked into reviving each one of these charters. If we didn't want to interfere in reviving any of the charters, either with a tax problem or with a criminal or civil problem, so we asked in each instance to make sure that we weren't interfering in reviving a charter with any process that was against us.

Adopted. Ordered to Third Reading.

HB 29, Relative to fees paid to municipal shelters or humane society facilities for unlicensed dogs held there. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: This bill is not a dog, it's a dog bill. This bill provides for fair compensation to the Town dog officers and humane societies who have to deal with stray dogs. There was no opposition to this bill. Representative Benton testified in favor of it, the State Veterinarian testified in favor of it and the committee recommends ought to pass.

SENATOR MCLANE: Senator Johnson, do you think that this day will go down as the day that we voted for housing for dogs, instead of people?

Adopted. Ordered to Third Reading.

HB 221, To revive the charter of the Pequawket Foundation, a non-profit organization. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This is another revival for charter and likewise it is our intention in passing this, not to interfere with any civil or criminal ongoing events that such exists and we know of none.

Adopted. Ordered to Third Reading.

HB 228, Legalizing certain town and district meetings. Ought to Pass with Amendment. Senator Heath for the Committee.

Senator Heath moved to recommit.

Adopted.

HB 397, Changing the time for counting absentee ballots and requiring the posting of the time for commencement of counting absentee ballots. Inexpedient to Legislate. Senator Heath for the Committee.

SENATOR HEATH: This was a very poorly written piece of legislation. We just felt that it needs more work than we could possibly have done in the Senate and to make it even workable, if you agreed with its intent. We didn't have that kind of time, nor do we really have the intent if we correctly even interpret the intent of the Legislation.

Adopted.

HB 497, Establishing a committee to study granting municipalities the option of setting their own tax rates. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: I think you may be aware that there is a good deal of interest among the municipalities seeking authorization to set their own tax rates. There are arguments and we heard a couple of bills in that regards in Public Affairs, but there really hasn't been any opportunity to reach consensus. This bill now is an attempt to bring the interested parties together; study this issue and see if they can't come up with legislation that would indeed allow those municipalities who wish to set their own tax rates to do so and others who wished to continue to use the State Agency to do that would also have that opportunity. Basically this bill establishes a study committee to bring interested parties together and hopefully resolve this thorny issue.



Adopted. Ordered to Third Reading.

HB 500, To revive the charter of the First Church (Congregational) in Jaffrey. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This Church is situated sixty miles as a crow flies from Bunker Hill and the reason that is important to this, is that is the day of the Battle of Bunker Hill and the day that they first erected the building of the Church and it was both alleged that it happened and alleged that it didn't happen that they heard the sounds of Bunker Hill on the day they erected it. You be the judge, but we certainly think that this charter should have continuity and we'd ask you to vote in favor of it.

SENATOR WHITE: As Senator Heath has so aptly pointed out, this is an important bill and it is an important Church and I would hope you would support it because they need it and it is in my district.

Adopted. Ordered to Third Reading.

HB 542, Relative to preferred provider agreements. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: We had a very lengthy presentation on this particular bill. It is an agreed upon bill. It's a good bill. It allows the employees to have an opportunity of who they are going to go to in regards to their provider. There wasn't any opposition to the bill and we hope you support this committee report.

Adopted. Ordered to Third Reading.

HB 626-FN, Relative to medication specialists. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: HB 626-FN was requested by the Division of Mental Health and Developmental Services. The Legislature has already passed a waiver from the Laconia State School to allow direct care employees who have undergone a training course to administer certain medications. This bill would expand this practice to other residents as regulated by the Division. It would include the New Hampshire Hospital, Glenclyff Community Mental Residences, Developmental Services Residences and then would establish the same training program that exists at Laconia for medication specialists in these residences.

Senator Delahunt always asks me to be brief, but because I know that there is controversy about this bill and I know you've all been lobbied by nurses. I would like you to listen to the brief testimony of Dr. Melton, who came to us and asked us to please pass this legislation which was passed by the House, because they are in an emergency situation. It's not a bill against nurses. I think all of us on the committee are very sympathetic to the position of the nurses who came and testified against this committee. We do see it as an emergency. Please listen to what Dr. Melton had to say.

He said, "What this bill does, is extend an existing RSA, the Nurse Practice Act, to permit direct care staff at the New Hampshire Hospital, Glencliff Home for the Elderly and in certain community based programs to administer medication. Eight or nine years ago, I appeared before the legislature in another capacity on this same issue. I was at that time Superintendent of Laconia State School and Training Center. We were looking for legislation to amend the act, which is presently constructed, to permit direct care staff who had passed the course to administer medication. The reason for our request was the extreme difficulty in recruiting and retaining nursing personnel. We couldn't hire them and we couldn't keep them. Yet our clients had to receive medication. The proposal at that time had detractors. There were individuals who said it would not work and that there would be dire consequences. There was no constructive alternatives to solve the problem. It has worked splendidly. It has worked without problems. We've learned that the direct care staff, who have been properly trained in the administration of medication, which includes the recognition of signs and contraindications, can do the job well. Out of 500,000 administrations of medications, the error rate was less than one half of one percent. It's interesting to note that the direct care staff made fewer errors than the nursing personnel. Why are we looking for further revisions and, please listen to this, we find ourselves unable to hire nurses. There is a high number of vacancies, 27 of 106 nursing positions or 26% are vacant. That's why four members of our committee voted in favor of this bill.

There was no alternative mentioned. I know there is going to be a move to table. I don't know what alternative could be presented to help a 26% shortage of nurses in our institutions between now and Tuesday. It is difficult to get up and speak against a bill that is opposed by nurses, my sympathies are always with them. We did listen to their testimony and we felt that this was the right thing to do to help our institutions, which are in an emergency situation.

SENATOR HOUNSELL: I rise in support of the motion of ought to pass and I wanted just to draw your attention to a situation. Glencliff Home for the Elderly, which is located in my district, serves as a residence for constituents of every Senator perhaps in this room. I had the opportunity to talk with the administration up there and they are in a very emergency situation in that they cannot find nurses. This bill shouldn't be looked at as pro nurse or anti nurse, because it isn't that. This is to provide emergency care for the residents of various facilities. I am focusing on the Glencliff Home for the Elderly because I know that they need this. They need this bill to take care of the constituents from throughout the State who are residents there. I also have faith that the Superintendent up there is going to be on top of who is administering medicine and is not going to allow inappropriate applications or admissions. I think that, for that reason, we can trust our administrators to oversee to make sure that it is done properly. I think this bill is important, it's timely and I would urge its passage.

SENATOR CHANDLER: Senator Hounsell, does Glencliff Home have a resident physician there?

SENATOR HOUNSELL: I don't know if they have a resident physician. I believe that they would have access to a physician if there is not one in residence however.

SENATOR KRASKER: Senator Hounsell, would you be interested in knowing a little bit about what is required to become a medication specialist?

SENATOR HOUNSELL: I certainly would, but I would also say that I think that there is enough information, so that at this stage I can trust that the process is right.

SENATOR KRASKER: Would you believe that I would like to tell you a little bit about it?

SENATOR HOUNSELL: Yes.

SENATOR KRASKER: Prior to becoming a medication specialist, the staff need to complete their six month probationary period, complete a nine day orientation program, which includes a 21 hour course in basic nursing skills, a 9 hour course in feeding techniques and an 8 hour class in behavior management. Completing that, they need to obtain psychiatric aid one status. That is accomplished by taking 4 mandatory classes. After that, they are eligible to become a

medication specialist. They must be interviewed, submit recommendations, they have to take tests and they are only accredited if they receive at least 90% on every examination. It is a very structured course and it has been a course that has been carried out successfully at Laconia since 1980.

SENATOR HOUNSELL: I believe that to be the case.

SENATOR HOUGH: I rise in opposition to passing this piece of legislation at this time and in the present state that the legislation is in. Senator Krasker, four sessions ago, or eight years ago, when I first came to this Senate, I sat on your committee and we had this issue. If I may, at the time, Senator Roy was the chair of the committee. If my memory serves me correctly, we spent many weeks in the session. We've researched this thoroughly and I believe that though it were passed, the record would show that it passed over my objection then. For all of the time that I have been in the legislature, Human Services and specifically the Mental Health, Mental Retardation delivery system, has been an area that I have spent a great deal of time working with and being very supportive of. Yes, there is a nurses shortage.

Senator Hounsell should realize that Glencliff was in my district until I was gerrymandered and lost it. But Glencliff is an institution that is very close to me and I still go up there because I take great pride in it. I take pride in the care. There is a problem recruiting, hiring and retaining medical professionals. The problem arises in legislation such as this, that while it establishes minimal criteria, it doesn't reach the reasonable standard which we come to recognize and respect within the professions. The State finds itself in a very tenuous situation, where they assume not only the responsibility, but very definitely the liability when they take people under custodial care. Be it people at Glencliff, people at Laconia, or New Hampshire Hospital or at the Prison, when we assume responsibility for human beings, we cannot compromise on the standards.

I recognize that there is a nursing shortage. There is a nursing shortage in State institutions. There is a move afoot to recruit nurses from the upper Mid-west and from Ireland and such places. Because part of the success of New Hampshire and the Northeast is the excellence in our medical facilities, both the State owned and the public and private hospitals. The emergency will not go away until we recognize the nurse as the professionals which they are and compensated and provide the benefits that are consistent with the non-

State institutions. That's what the problem is and that's what the emergency is and that's what the crisis is. It behooves us to recognize our State employees, who are these professionals. When we do that, you will find that highly specialized and highly unique individual who specializes in the psychiatric nurse field, coming into State service. We are allowing a degree of exception to the professions, to go out throughout the mental health delivery system, including those that are in a relationship with the State in the various community based facilities. I have been assured that there is, at this very moment, a continued and ongoing attempt within the professions to work with people in the department to properly address this situation. I am confident that we can take further action on this piece of legislation, prior to the end of the session, which both maintains the professional integrity of the Nurses Practice Act, while at the same time, will allow a degree of accommodation in our institutions. That's only part of the question. I think if we are truly sincere in our attempt, we have to recognize the positions in our institutions and there has to be a concerted effort to make them consistent with the positions in the private sector. Then you will find there will not be vacancy rates and the lack of retention rates in our states institutions. I cannot support this legislation in its present form and I would hope that an opportunity would be allowed for us to continue to work on this subject with the full intention of addressing properly.

SENATOR HOUNSELL: Senator Hough, do you understand that I do appreciate the nursing profession and I do personally recognize that it is a very important profession, but I see this issue as being one of an emergency need that has to be met, as we also attempt to address the needs of more nurses?

SENATOR HOUGH: I certainly do and having served with you, I understand that you have always insisted on a strict level of excellence in regard to the medical professionals in the area of human service. You know that I am very familiar with Glenclyff, that's an institution that I used to represent. I am very familiar with the peculiar problems at Glenclyff are, but I think that the responsibility of the State assuming the liability of people in custodial care will be more correctly protected if you allow us to continue to work on this legislation.

SENATOR HOUNSELL: I understand and I am in agreement with you to a point. What I am saying is, what would you suggest is a solution to the need that, Glenclyff for example, has right now. Can we wait for the longer range solution which I also endorse?



SENATOR HOUGH: Glencliff is not that much unlike Laconia, in the sense that there is a peculiar problem where these institutions are located, in attracting, they are highly specialized psychiatric type nurse. I stand to be corrected, but I believe for a number of years now, you had to have a tremendous amount of consulting funds and the Glencliff budget cannot have an in house physician. Immediately, you should allow for us to properly identify the staffing patterns, specifically at Glencliff and upgrade the position so that they are consistent with the private sector, if you will. Glencliff literally is only over the ridge from the valley and there are a high concentration of medical professionals. They don't all work in the same place, there are types of employment that are more attractive to others. I think that Glencliff has the potential and its proximity to Vermont and that section of the valley. We have a nursing problem granted. This piece of legislation can address it in part if we are allowed to continue to work on this.

SENATOR WHITE: Basically, this is a very simple bill. If you will just look on the first page of the bill, those things that some people think are critical are not allowed under this piece of legislation. The medical specialists would not be allowed to administer any medication in or on the eye, which I believe is very critical. They would not be able to administer any medication in the vagina or in the bladder and they would not be allowed to give any injections. I think these are critical points in the bill which strengthen the bill. Any medication that would be given, would be prepared by the doctor, distributed to the nurse and then given to the medical specialists. It is a good bill. There are safeguards because there is no question that the State of New Hampshire would be liable for anything that happened to any of the patients. We are not going to allow anything to happen to the patients, so I think it is very critical that we understand that the liability stays with the State of New Hampshire, the doctors and nurses in charge will not allow them to give something that should not be given. I believe that there are effective controls to be sure that the wrong things are not given out at any point.

As Senator Hounsell has pointed out, we have a critical problem at Glencliff. Currently there are five of the nineteen RN positions that are vacant. At the New Hampshire Hospital it's even greater, I think there is something like 46 positions that are vacant. I'm not sure of the exact figure.

We do have a vacancy. No one has come up to tell us how we can address the vacancy because New Hampshire currently is not providing enough nurses for the State of New Hampshire. Concord

School of Nursing has closed and so have the Vo-Tech nurses classes, except at Berlin. So we are not training nurses any longer. We have a problem and we feel that this would be one way to address it. The committee in executive session was unanimous. Those of us who heard the bill completely support it. I was there when the bill was heard and these are the documents that were passed out during the hearing. It was not a simple hearing that we had, they have researched it. We had the woman from Laconia State School, who is the trainer of the aides present, and she detailed the training that she gave to the medical specialists. I rise in support of the committee report of ought to pass.

SENATOR JOHNSON: I rise in support of HB 626-FN. I think the liability issue is a red herring. I think it is unfortunate that we have to come to legislation like this, but on the other hand we apparently came to it seven years ago up at Laconia State School. The philosophy in a practice that has been advanced by this bill has a seven year history. The world has not come to an end and the Laconia State School has managed notwithstanding. I think we need to remember that the medication that has been prescribed by a medical doctor. Senator Krasker has outlined the intense training program that is required for anybody to be able to be authorized to do this.

SENATOR MCLANE: Senator Hough, there is a bill, a section of the budget having to do with recruitment of nurses, that the House sent over. I think its about \$14,000 enhanced for a recruitment of nurses. Is that the sort of thing that you are talking about when you are talking about putting this bill on the table and examining those issues.

SENATOR HOUGH: There is a section in the budget which will allow this. That would allow for an assertive effort to attract nurses to New Hampshire in general, from places such as Ireland, Scotland and the upper Mid-west. That has more to do with a nursing shortage in general, that the Northeast and the medical institutions are all facing. But the problems that we have in the State family are well known. There is a problem of not properly identifying within our personnel mechanism, the position of that professional. So, if you are inconsistent with the private sectors and just not in general. There is a disparity there. We recognize that, that has to be worked on. That's not going to be the answer.

SENATOR MCLANE: I have listened to Jack Nelson and I know he has a real problem and I would support this bill to solve that problem. What I'm trying to figure out is, if you lay the bill on the table

what is your solution going to be for the short term, before we do all these wild things, advertising in Arizona and Ireland as they suggested?

SENATOR HOUGH: I do recognize that there is a problem in these institutions. If I had a solution this afternoon, that was in amendment form and I claim no pride of authorship, but what I can tell you very definitely that there is concerted effort in an ongoing situation to address this program and that it will be addressed correctly by the end of the session.

Senator Podles moved to lay the bill on the table.

Senator Bond requested Roll Call.

Senator Chandler seconded.

Those in favor: Senators Hounsell, Freese, Hough, Dupont, Chandler, Disnard, Blaisdell, Pressly, Nelson, Podles, Johnson, Stephen, Torr and Delahunty.

Those opposed: Senators Bond, Heath, Roberge, White, Charbonneau, McLane, St. Jean, Preston and Krasker.

14 Yeas

9 Nays

Motion Adopted.

HB 291, Relative to cosmetology. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: HB 291 allows licensed cosmetologists to go and engage their practice to invalids, handicapped people or persons confined to their place of residence or home.

Adopted. Ordered to Third Reading.

Senator Charbonneau wished to be recorded in opposition.

HB 692-FN, Establishing an involuntary treatment task force. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This is an important bill because we have a problem now on the streets of New Hampshire in our larger cities, where you have homeless people, obviously mentally ill, who cannot be committed to the New Hampshire Hospital because by the defini-

tion they are not dangerous to themselves and others. This is a difficult question and the committee worked very hard on the amendment on page 11, to come up with a committee of balance that could address this problem. We have a consumer advocate on the board, we have the families, we have the medical profession, we have the bar association and I think that we need to address this problem. There have been several articles in the paper recently of homeless people who go into a restaurant, order up a meal and then refuse to pay, so they get sent up to the county farm for theft of services. They are not criminals and they are mentally ill and yet they are really not dangerous. Under the present definition they cannot be admitted to the psychiatric hospital. We have got to do something and I think that this Task Force study is a balanced approach.

SENATOR HOUNSELL: I rise in support of the committee amendment for the bill. I think this is a New Hampshire solution to a New Hampshire problem.

SENATOR BOND: In the last session we had HB 229, which is a recodification of the mental health laws. This was an area of which we did not address in that recodification and it is important that we deal with it now in a study, so that we can write some quality legislation.

#### AMENDMENT TO HB 692-FN

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. There is hereby established a task force on involuntary treatment to study the involuntary treatment of persons in the current mental health services system. The members of the task force shall include the following:

(a) Two members of the house of representatives or their designees, appointed by the speaker of the house.

(b) Two members of the senate or their designees, appointed by the president of the senate.

(c) The director of mental health and developmental services or his designee.

(d) A representative of the New Hampshire Psychiatric Society.

(e) A representative of the New Hampshire Bar Association.

(f) A representative from a legal advocacy organization.

(g) A representative from a consumer advocacy organization.

(h) A representative from the New Hampshire chapter of Alliance for the Mentally Ill.

- (i) A representative from a community mental health center.
- (j) One member appointed by the governor.

Amendment Adopted. Ordered to Third Reading.

### HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE IN AMENDMENT  
SB 58, Relative to detention powers of county fair security guards.

Senator St. Jean moved to concur.

Adopted.

### HOUSE NON-CONCURS IN SENATE AMENDMENT REQUESTS COMMITTEE OF CONFERENCE

HB 143-FN, Relative to sunset review of the department of fish and game law enforcement.

The Speaker has appointed Reps: Jensen, Magoon, Albert Dionne and Kinney.

Senator Hounsell moved to accede to the request for a committee of conference.

Adopted.

The Chair appointed Senators: Hounsell, Freese and St. Jean

HB 45, Relative to maternity and infancy.

The Speaker has appointed Reps: Wilson, Sochalski, Austin and Sullivan.

Senator Krasker moved to accede to the request for a committee of conference.

Adopted.

The Chair appointed Senators: Krasker, Bond and White.

### ENROLLED BILLS AMENDMENTS

SB 123, Amending ward lines for the city of Portsmouth.

Senator Chandler: The amendment corrects a typographical error in punctuation and renumbers a bill section.



Amend the bill by replacing line 18 on page 4 with the following:  
amending ward lines for the city of Portsmouth passed at the 1987

Amend the bill by replacing line 3 on page 5 with the following:

5 Effective Date.

Adopted.

SB 214, Relative to the allocation of the state's tax-exempt private activity bond limit.

Senator Chandler: This amendment corrects 2 typographical errors in sections 1 and 2 of the bill. The amendment also corrects a grammatical error in section 1 of the bill.

Amend the bill by replacing line 16 on page 4 with the following:  
obligations or certificates requiring state ceiling, the governor may  
by

Amend the bill by replacing line 20 on page 4 with the following:  
affect any assignment, allocation, transfer or carry-forward made by  
either

Amend the bill by replacing line 25 on page 5 with the following:  
incident to and necessary or convenient to carry out is corporate  
purposes

Adopted.

### ENROLLED BILLS

SB 235, Relative to municipal and county bonds.

CACR 4, Relating to: the amount in controversy required for a jury trial.

Providing that: the amount shall exceed \$1,500.

SB 42, Relative to employees of the sweepstakes commission.

SB 66, Relative to the office of reimbursements.

HB 31, Relative to boating on Wakondah Pond in the town of Moultonboro and School Pond in the town of Danbury.

HB 150, Relative to sunset review of New Hampshire hospital.

HB 164, Relative to sunset review of Connecticut River Valley flood control commission.

HB 170, Relative to sunset review of Merrimack River flood control commission.

HB 422, Creating a committee to study and revise the laws pertaining to elderly persons.

HB 518, Relative to enforcement of the underground utility damage prevention system.

HB 582, Providing for regional conferences on highway related problems.

HB 584, Relative to the special justice of the Pelham municipal court.

HB 605, Relative to the terms of persons committed to jails or houses of correction in default of payment of fines.

HB 670, Establishing a committee to study matters relative to biomass energy facilities.

HB 677, Relative to a staffing plan for the new central psychiatric facility and a staffing plan for the Glenclyff home for the elderly and programs in New Hampshire hospital.

HB 26, Making an appropriation for the New Hampshire bicentennial commission of the United States Constitution.

HB 38, Relative to the method of taking deer in the town of Madbury.

HB 47, Relative to certain fish and game licenses.

HB 60, Relative to indemnification of fish and game department volunteers.

HB 61, Relative to the executive director setting the deer and bear seasons for taking.

HB 113, Establishing a civil air patrol grant program.

HB 192, Establishing a program of regional and municipal assistance in the office of state planning.

HB 196, Establishing a study committee to determine the feasibility of establishing OHRV trails on rights of way of state highways.

HB 269, Relative to the appropriation for motor vehicle replacement.

HB 304, Relative to simulcast racing.

HB 371, Relative to the compromise of an action against the state and making an appropriation therefor.

HB 377, To liquidate encumbrances and lapse available balances on certain capital accounts.

HB 522, Relative to membership on the state party convention.

HB 726, Relative to the qualifications of the director of human services and establishing certain positions.

HJR 1, Relative to the New Hampshire agricultural experiment station.

## RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, April 21, 1987 at 1:00 p.m.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

HB 327-A, An act relative to funding for a pulp and paper technology program at the New Hampshire vocational-technical college at Berlin.

HB 306, Limiting the horsepower of boat motors on Marchs Pond and Chalk Pond in the town of New Durham and prohibiting the use of jet skis on said ponds and on Pine River Pond in the town of Wakefield.

HB 65, Restricting power boats on Lake Wicwas in the town of Meredith.

HB 158-FN, Relative to sunset review of the department of education - adult basic education.

HB 177-FN, Relative to sunset review of veterinary/medical/optometric education program.

HB 159-FN, Relative to sunset review of the board of education - driver education.

HB 160-FN, Relative to sunset review of postsecondary education commission veterans education service and repealing the advisory committee.

HB 167-FN, Relative to sunset review of the department of post-secondary vocational-technical education.

HB 249-FN, Relative to the shore frontage and acreage at the Laco-  
nia State School and training center.

HB 488, Relative to the department of revenue administration.

HB 46, Relative to the state radiation advisory committee.

HB 88-FN, Relative to the pesticide control board; rulemaking hearing, exemptions, and definitions.

HB 127-FN, Relative to sunset review of the board of veterinary examiners and relative to preliminary hearings.

HB 145-FN, Relative to sunset review of the New Hampshire port authority.

HB 455, Relative to criminal mischief.

HB 474-FN, Relative to solicitations for charitable purposes.

HB 11, An act relative to the number of library trustees.

HB 13, An act to revive the charter of the Chocorua Chapel Association, a nonprofit organization.

HB 29, An act relative to fees paid to municipal shelters or humane society facilities for unlicensed dogs held there.

HB 221, An act to revive the charter of the Pequawket Foundation, a nonprofit organization.

HB 497, An act establishing a committee to study granting municipalities the option of setting their own tax rates.

HB 500, An act to revive the charter of the First Church (Congregational) in Jaffrey.

HB 542, Relative to preferred provider agreements.

HB 291, Relative to cosmetology.

HB 692-FN, Establishing an involuntary treatment task force.

HB 462-FN, An act to provide New Hampshire Purple Heart recipients with special commemorative license plates.

HB 600-FN, An act relative to OHRV fees.

HB 686-FN, An act relative to farm plates.

### RECONSIDERATION

Senator McLane moved to reconsider HB 65.

HB 65, Restricting power boats on Lake Wicwas in the town of Meredith.

Division:	6 yeas	17 nays
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Motion lost.

Senator Dupont moved to adjourn until Tuesday, April 21, 1987 at 1:00 p.m.

Adopted.

Adjourned.

*Tuesday, April 21, 1987*

Senate met at 1:00 p.m.

A quorum was present.

Prayer was offered by the Reverend Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we thank you for the renewal of Easter and the message which it contains - as we look at the past and present and forward into the future of our own lives and deeds! So may we here



in this Senate always remember our own lives and the lives of others as we with a clear conscience do our work. Thank you Lord.

Amen

Senator Krasker led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

## COMMITTEE REPORTS

HB 30-FN-A, Relative to uniform allowance for newly commissioned second lieutenants and warrant officers in the New Hampshire national guard and making an appropriation therefor. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 30-FN-A provides for an allowance for newly commissioned second lieutenants and newly appointed warrant officers of \$100 towards their clothing allowance. The clothing for a newly commissioned warrant officer and a second lieutenant costs \$1,000. The State of New Hampshire does not provide any funds for that and this is an attempt to provide a token appropriation for it. In the other governmental departments, the State of New Hampshire provides all their clothing allowance. So, the committee feels that this ought to pass and recommends that the Senate concur.

Adopted. Ordered to Third Reading.

HB 555-FN, Relative to lucky 7 tickets sold by dispenser devices. Ought to Pass. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This is the same bill that passed the Senate the other afternoon and was sent to Finance. We took a look at it and said ought to pass, no money involved.

Adopted. Ordered to Third Reading.

HB 662-FN, Relative to reimbursement of the state for patients rendered services by the secure psychiatric unit. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 662-FN provides for the forensic unit, which was transferred from the New Hampshire hospital to the State hospital. It's now known as a secured psychiatric function, the ability to collect from those persons that are housed there, and also, collect from their estate. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

HB 456-FN, Relative to interference with burial grounds and unlawful possession or sale of gravestones. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: This is, needless to say, a grave concern to this body. This is a consolidation of several bills that were filed in the House, one of which I was a co-sponsor of, which makes the theft of gravestones or other parts of grave sites a class B felony. It's become a profitable operation to take some of our heritage, namely some of the art work which was performed on gravestones 250 years ago, haul them to New York and make coffee tables out of them. We heard testimony that they'll bring as much as \$2,000 to \$4,000 a headstone for a coffee table. We urge you to support this bill making it a class B felony and hopefully drying up the market for ancient headstones. I hope you get the spirit of this bill.

Adopted. Ordered to Third Reading.

HB 393, Establishing the availability of the remedy of declaratory judgement to determine the coverage of a liability insurance policy in the federal district court. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: The purpose of this bill is simply, to clarify to the federal district court, that New Hampshire's declaratory judgement law is intended to be available in certain cases brought into New Hampshire's federal court. In other words, it is the legislature's intent to allow the federal court to adopt the New Hampshire statutes, which they can do under federal law. The vote was four to zero out of committee.

Adopted. Ordered to Third Reading.

## NOTICE OF RECONSIDERATION

Senator Bond served notice of reconsideration on HB 167, Relative to sunset review of the department of post-secondary vocational - technical education.

## COMMITTEE REPORTS

HB 714-FN, Relative to assessment of open space land. Re-referred to Committee. Senator White for the Committee.

Adopted.

### RECONSIDERATION

SENATOR DUPONT: Having voted in the affirmative on HB 707, at this time, I would like to move reconsideration.

HB 707, Relative to the implementation of public utility rate schedules under bond.

Senator Heath requested Roll Call.

Senator Podles seconded.

Those in favor: Senators Bond, Heath, Disnard, Pressly, Nelson, Charbonneau, Johnson, Stephen, Preston and Krasker.

Those opposed: Senators Hounsell, Freese, Hough, Dupont, Chandler, Roberge, Blaisdell, White, McLane, Podles, Bartlett, St. Jean, Torr, and Delahunty.

10 Yeas

14 Nays

Motion lost.

### COMMITTEE REPORTS

HB 454, Relative to proof of exceptions. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 454 was requested by the Department of Justice. It makes a major change in four laws that regulate explosives, fireworks, hand guns and pharmacy. Currently it's the State's job to show that a person accused of violating these laws does not qualify for an exemption, but HB 454 shifts the burden from the State's side to the defendant's side, making the one accused of a violation prove that he did everything right and that he falls within the exception to a statute, thereby, making it easier for the State. The amendment changes the effective date to July 1, 1987. The committee recommends ought to pass with amendment.

### AMENDMENT TO HB 454

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

### INTRODUCTION

SENATOR HOUGH: Occasionally, one can stand in this chamber and introduce a guest that is undoubtedly one of the most distinguished members that ever served in this body. I can tell you in all seriousness and not in jest, that the person that I'm going to introduce at this time is, without a doubt, the finest State Senator that ever served District 5. Would you please warmly welcome Senator David Hammon Bradley.

HB 36, Relative to alimony and property settlements and fault grounds in divorce. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 36 for the most part, codifies current case law and thus compiles all the rules. A person could consult this law and find out what rules govern his or her rights. Beyond that, the bill adds the following new items. In settling property, the courts consider fault, where it has been shown that the fault caused not only the breakdown of the marriage, but also caused harm, be it physical or emotional. The court will automatically issue an order regarding preserving the property. Currently, these orders are issued by request and not automatically. There is also an exemption for investments because freezing stocks could be harmful to the total property. Trust fund rules are codified in rules about money for college and continued care for an incompetent child who reaches 18 and once they become adults are also added. The bill also protects valid prenuptial contracts regarding property, but it does not repeal fault grounds for divorce.

The amendment updates alimony orders and makes clear that no matter when the divorce was first granted, alimony reviews can be effective for an agreed upon time or a time the court sets, and also, the word "misconduct" is changed to the word "fault". The committee recommends ought to pass with amendment.

### AMENDMENT TO HB 36

Amend RSA 458:19 as inserted by section 2 of the bill by replacing it with the following:

## 458:19 Alimony.

I. Upon motion of either party for alimony payments, the court shall make orders for the payment of alimony to the party in need of alimony, either temporary or permanent, for a definite or indefinite period of time, if it finds that:

(a) The party in need lacks sufficient income, property, or both, including property apportioned in accordance with RSA 458:16-a, to provide for his reasonable needs, taking into account the style of living to which the parties have become accustomed during the marriage; and

(b) The party from whom alimony is sought is able to meet his reasonable needs while meeting those of the party seeking alimony, taking into account the style of living to which the parties have become accustomed during the marriage; and

(c) The party in need is unable to support himself through appropriate employment at a standard of living that meets his reasonable needs or is the custodian of a child of the parties whose condition or circumstances make it appropriate that the custodian not seek employment outside the home.

II. Upon motion of either party, the court may make orders for the payment of an alimony allowance when such orders would be just and equitable.

III. Upon a decree of nullity or divorce, or upon the renewal, modification, or extension of a prior order for alimony, the court may order alimony to be paid for such length of time as the parties may agree or the court orders.

IV. The court may make orders for alimony in a lump sum, periodic payments, or both. In determining the amount of alimony, the court shall consider the length of the marriage; the age, health, social or economic status, occupation, amount and sources of income, the property awarded under RSA 458:16-a, vocational skills, employability, estate, liabilities, and needs of each of the parties; the opportunity of each for future acquisition of capital assets and income; the fault of either party as defined in RSA 458:16-a, II(1); and the federal tax consequences of the order. The court may also consider the contribution of each of the parties in the acquisition, preservation, or appreciation in value of their respective estates and the non-economic contribution of each of the parties to the family unit.

V. The unanticipated consequences of changes in federal tax legislation or regulations may be grounds to modify any alimony order or agreement.

VI. The court shall specify written reasons for the granting or denial of any motion for an alimony allowance.



Amendment Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Podles in the chair.

### COMMITTEE REPORTS

HB 43-FN, An act relative to eligibility for admittance to the New Hampshire Veterans' home. Ought to Pass. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: HB 43 simply puts the words "in time of war" back into the statute. These words were taken out in 1986 session at the request of the Board of Governors and the Commandant of the Veterans' Home. The reasons for this requested change reflected their belief that citizens called to active duty in peacetime, made substantial sacrifices to serve. The Commandant at the time thought that the peace time veteran's were included in veteran's eligibility for all services and benefits which is not the case. For 96 years, the statutes have required that admissions to the Veterans' Home be limited to wartime veterans. It was a moral judgement on the part of the Board of Governors and the Commandant, that everyone who is called to service should be eligible, but in reality, the veterans' home cannot provide the care and treatment needed and until such time as Congress establishes these services of benefits for these periods of service, it would be in the best interest of the State to reverse the action of 1986.

Adopted. Ordered to Third Reading.

HB 266, Relative to the state veterans' needs committee. Ought to Pass. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: HB 266 adds a vice-chairman to the State veterans' needs committee. When the committee was established in 1985, the vice-chairman was left out in error. This legislation is purely a housekeeping measure, so that when the chairman of the committee is not able to attend a meeting, they may proceed with the vice-chairmanship.

Adopted. Ordered to Third Reading.

HB 663-FN, Legalizing action by the city of Franklin in adopting a budget and supplemental budget for an optional fiscal year and authorizing debt during the transition period. Ought to Pass. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: This bill allows the city of Franklin to issue its bonds or notes up to an amount, not to exceed \$4.1 million, for the transition cost to convert from a calendar year accounting process to that of a fiscal year. In 1986 the legislature adopted HB 426-FN, which allowed the city of Franklin to convert to a fiscal year. At that time, the city was unaware of the borrowing limitation under RSA 39 94-A. When the city met with the department of revenue to establish their tax rate, they were informed that their bonding limited for the fiscal year transition exceeded RSA commitment. Their limit according to RSAs, is in the vicinity of 2.3 million. There was much testimony from the Franklin city managers that they needed this.

Adopted. Ordered to Third Reading.

HB 66-FN, Reviving the charters of Camp Tecumseh and the Webster Lake Association. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: Public Affairs committee looked into both of these to see if there are any legal ramifications and reenacting post active retroactively, the charters that we looked in at considerable length at Camp Tecumseh. We have assurance from their legal representatives that a lawsuit that is pending against them, would have no bearing on it because they've already acted as a corporation and agreed to those facts. I do however want to make it a part of the record that our motion ought to pass, is based on the fact that, as we've said in other charter cases, that it is not the intent of the Senate to have any of these revitalization of charters have an effect on any tax or legal, civil or criminal liabilities. With that I'd urge you to vote the committee report of ought to pass.

SENATOR CHANDLER: The report was ought to pass with amendment.

SENATOR HEATH: I think you'll find the amendment in the calendar. I don't exactly recall what it was, I think it might have been a date. Revitalization of a charter, which had passed the House, but inadvertently had not been put into the House calendar and there were no questions there that we could ascertain of any financial, legal responsibility that this would have an effect on.

## AMENDMENT TO HB 66-FN

Amend the title of the bill by replacing it with the following:

An Act

permitting the revival of certain corporate charters.

Amend the bill by replacing section 3 with the following:

3 Reinstatement of Lakewood Beach Association Corporate Charter. Notwithstanding the 51-month limitation on revival of charters in RSA 292:30, I, the officers of the Lakewood Beach Association may procure the revival of its November 19, 1948, charter, which was revoked on April 26, 1977, by complying with the requirements of RSA 292:30, II-VII. In effecting a revival of the Lakewood Beach Association charter, it is the express intent of the legislature not to recognize or extend in any way the littoral or riparian rights of said association.

4 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to Third Reading.

HB 123-FN, Relative to sunset review of public employee labor relations board. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: This bill covers a problem that's created by an increase work load for the public employees labor relations board. They have found that they were getting behind in their work and they requested two things, an extension of time in which to deal with their case load and additional help. So, this creates three new alternate members, that will be picked along the same lines as one labor, one management and one neutral. It also gives them special exemption from the deadline if they can make the case of it being needed.

We amended it into this version. They had asked for this and the House had come over with a case worker proposal and we substituted three additional members with the board on an alternate basis. The labor relations board seems very happy with the amendment.

## AMENDMENT TO HB 123-FN

Amend the bill by replacing section 3 with the following:

3 New Section; Public Employee Labor Relations Board; Conflicts of Interest Prohibited. Amend RSA 273-A by inserting after section 2 the following new section:

273-A:2-a Conflict of Interest.

I. No board member shall participate in any case or issue before the board in which he has a potential conflict of interest. A conflict of interest shall include any case or action in which a member has a personal or professional interest and any case or action in which a member is personally or professionally associated with any of the parties involved.

II. The board shall adopt rules, under RSA 541-A, to establish procedures for identifying and addressing potential conflicts of interest by board members.

Amendment Adopted. Ordered to Third Reading.

HB 312, To legalize a town meeting held in Canaan. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: HB 312 is the bill to legalize all action taken at the special town meeting held in the town of Canaan on November 16, 1985. The testimony was unanimously in support of this legislation and the committee unanimously agreed with that and recommends ought to pass.

Adopted. Ordered to Third Reading.

HB 434, Relative to the public employee labor relations board. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill provides that the public employee labor relations board may appoint hearing officers in any case that it deems appropriate. The requirement that the board use certified mail to notify all persons required to appear, is replaced by a requirement that the board give notice of a hearing to all interested parties. That such notice shall include a return receipt. The board must hold a hearing within sixty days, not forty-five, of receiving a complaint and the board shall render its decision with sixty days, not the former forty-five days after such hearing. The committee on Public Affairs concurs unanimously with HB 434 and recommends ought to pass with amendment.

Now, I would like to explain the amendment that the committee voted on. It appears on page 9 of your calendar and as far as chang-

ing the dates, it was the feeling of the committee that there should be a due cause in order to diminish the requirement and the length of time. At the bottom of the page it refers to alternate board members. We did feel that the inclusion of the different type of notice was appropriate and the committee does recommend the amendment as reported in the calendar.

#### AMENDMENT TO HB 434

Amend RSA 273-A:6, II as inserted by section 2 of the bill by replacing it with the following:

II. Complaints shall be filed by affidavit. A copy of the complaint shall be given to the party complained against at the time the complaint is filed. The board shall hold a hearing within 45 days under rules adopted by the board pursuant to RSA 541-A. In the event that the board finds special cause due to the likelihood of agreement between the parties in a dispute, or due to the caseload of the board, the hearing required by this section may be delayed, but no longer than 60 days after the filing of the complaint. The board shall give 5 working days notice of the hearing [by certified mail] to all persons required to appear [and], to the representative of a party against whom a complaint has been filed, and to all interested parties. The notice shall include a return receipt.

Amend RSA 273-A:6, VI as inserted by section 3 of the bill by replacing it with the following:

VI. The board shall render its decision within 45 days after the hearing, in accordance with rules adopted by the board pursuant to RSA 541-A. In the event that the board finds special cause due to the likelihood of settlement by the parties in a dispute, or due to the caseload of the board, the decision required by this section may be delayed, but no longer than 60 days after the hearing. Upon finding that a party has violated RSA 273-A:5, the board may:

- (a) Issue a cease and desist order;
- (b) Order reinstatement of an employee with back pay;
- (c) Require periodic reporting of compliance;
- (d) Order payment of the costs incurred by a party negotiating in good faith in negotiations found by the board to have been carried on not in good faith by the other party, if the board finds such penalty appropriate to the circumstances; or
- (e) Order such other relief as the board may deem necessary.

Amend the bill by replacing section 5 with the following:



5 Public Employee Labor Relations Board; Increasing Number of Alternate Members. Amend RSA 273-A:2, I-a to read as follows:

I-a. The governor and council shall appoint, in addition to the regular board members specified in paragraph I, [3] 6 alternate board members. One member shall have extensive experience representing organized labor, one member shall have extensive experience in representing management interests, and one member shall represent the public at large, and shall not hold elective or appointive public office, or elective or appointive office, or membership in, organized labor at the time of his appointment or during his term. Alternate board members shall serve a 6 year term, and may be removed by the governor and council.

6 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted. Ordered to Third Reading.

HB 556-FN, Relative to recording fees. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: This is a bill that is supported by the registers of deeds. It clarifies the current law in recording fees and has to do with banks and other organizations like that and filing mortgage assignments. It changes the fee structure and there was no opposition to this bill. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

### ENROLLED BILLS AMENDMENTS

HB 67, Relative to urea-formaldehyde.

Senator Chandler: This enrolled bill amendment corrects 3 typographical errors in the bill.

Amend the bill by replacing lines 9 and 10 on page 1 with the following:

manufactured housing constructed of particle board, (or) fiber board, or any similar construction material, containing urea-formaldehyde resin,

Amend the bill by replacing line 6 on page 2 with the following:

If a contract for sale does not exist, the statement shall be printed on a

Adopted.

HB 73-FN, Relative to falconry.

Senator Chandler: This bill corrects an inconsistent term in the bill.

Amend the bill by replacing line 6 on page 2 with the following:

hunting license. The initial fee for a falconry permit shall be \$50 and

Adopted.

HB 79-A, Making a capital appropriation for Tip Top House.

Senator Chandler: This amendment corrects typographical errors in punctuation.

Amend the bill by replacing line 6 on page 1 with the following:

(Notwithstanding the provisions of RSA 4:8, the

Amend the bill by replacing line 1 on page 2 with the following:

this project.)

Adopted.

HB 97-FN-A, Appropriating funds to the department of agriculture for inspection of apiaries.

Senator Chandler: This enrolled bill amendment corrects an incorrect cross-reference in the bill.

Amend the bill by replacing line 5 on page 1 with the following:

diseases in accordance with RSA 429. This appropriation is in addition to

Adopted.

HB 161-FN, Relative to sunset review of the board of barbering and cosmetology.

Senator Chandler: This enrolled bill amendment corrects a typographical error.

Amend the bill by replacing line 3 on page 1 with the following:

agency or program shall terminate on July 1, 1993, subject to RSA 17-G.

Adopted.

HB 236, Relative to durable powers of attorney.

Senator Chandler: This amendment corrects 2 typographical errors in the bill.

Amend the bill by replacing line 14 on page 3 with the following:

Only the parties, their counsel, witnesses, and representatives of agencies

Amend the bill by replacing lines 20 and 21 on page 3 with the following:

without the invalid provisions or application, and to this end the provisions of this

Adopted.

HB 482, Relative to the charter of Wentworth-Douglass Hospital.

Senator Chandler: This amendment shows the deletion of current material from a session law, which was omitted from the original bill through a typographical error. The amendment also corrects another typographical error.

Amend the bill by replacing line 15 on page 3 with the following:

238:6 Organization; Bylaws; Trustees; Compensation. The trustees of

Amend the bill by replacing lines 19-25 on page 3 with the following:

provisions for a board of trustees which (no more than 6 months after the effective date of this act) shall include (not less than 9 members, of which not less than 7 nor more than 3/4 shall be residents of the city of Dover) any number permitted by law from any geographic location. The board shall be vested with the general management of the corporation, and adoption of rules for the governance and transaction of business as may be necessary and proper for the management of the hospital and the business of the corporation. The bylaws shall provide that the

Adopted.

HB 526-FN, Establishing a department of safety.

Senator Chandler: The amendment corrects: 1) amending language in 2 places; 2) a cross-reference; 3) 2 paragraph designations; and 4) an erroneous description of a cross-reference.

The amendment also changes certain references from the “director of safety services” to the “commissioner of safety” to conform with other provisions of the bill, and removes 2 RSA sections amended by sections 16 and 17 of the bill from the list of sections amended in section 6, I(c) of the bill.

Amend the bill by replacing line 1 on page 1 with the following:

1 New Chapter. Amend RSA by inserting after chapter 21-o the

Amend the bill by replacing line 19 on page 3 with the following:

materials in accordance with RSA 21-P:17.

Amend the bill by replacing line 9 on page 8 with the following:

I. Hazardous materials transportation and truck weight

Amend the bill by replacing line 13 on page 8 with the following:

II. Bingo and lucky 7 enforcement and any other duties performed

Amend the bill by replacing line 5 on page 13 with the following:

(k) Identification numbers for vehicles, as authorized by

Amend the bill by replacing line 4 on page 26 with the following:

4 Salaries. Amend RSA 94:1-a, I by:

Amend the bill by replacing lines 11 - 12 on page 27 with the following:

all references to “director” in RSA 270:1; and 270:1-a; 270:12; 270:16-b; 270:31; 270:39; 270:43; and 270:48 shall be changed to

Amend the bill by replacing lines 17 - 25 on page 31 of the bill and lines 1 - 4 on page 32 of the bill with the following:

this chapter, the director of safety services may from time to time make] The commissioner of safety shall adopt rules, [and regulations] pursuant to RSA 541-A, relative to the equipment and operation of all boats, including rafts and floats of whatever kind, type or character, operated or used on any public waters in this state, and

the classification, examination and certification of captains, masters, engineers, and pilots of all such boats. Such rules [and regulations] shall be binding on the persons owning, leasing, or operating such boats, rafts and floats. [It shall be the duty of said director to] The commissioner shall enforce the provisions of this chapter and the rules [and regulations issued thereunder] adopted under it, and in such enforcement [said director] the commissioner and his duly authorized representatives shall have all the powers of a deputy sheriff in any county of the state.

Amend the bill by replacing line 7 on page 32 with the following:

270:16-c Revocation. The commissioner of safety, after hearing,

Amend the bill by replacing line 10 on page 32 with the following:

this chapter or the rules adopted by the commissioner. The hearing officers

Amend the bill by replacing lines 22 - 25 on page 32 with the following:

321-A:2 Rules [and Regulations]. The [director] commissioner shall [promulgate rules and regulations] adopt rules, pursuant to RSA 541-A, for the safe installation, repair, maintenance, use, operation and inspection of all carnival or amusement rides, as covered by this chapter, for the protection

Amend the bill by replacing lines 6 - 12 on page 33 with the following:

amusement ride without having first registered it with the [director] commissioner, as provided in RSA 321-A:5, or violating the rules [and regulations promulgated] adopted by the [director] commissioner, as provided in RSA 321-A:2, shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. Any operator or owner who operates after a suspension, as provided in RSA 321-A:7, shall be guilty of a violation for each day of illegal operation.

Amend the bill by replacing lines 15 - 22 on page 33 with the following:

amusement ride without a decal issued by the [director] commissioner. The [director] commissioner may by rule, adopted pursuant to RSA 541-A, establish a reasonable fee for decals to cover the costs of administering this chapter. An operator shall apply for a decal to



the director on a form furnished by him and containing such information as he may require. No such decals shall be issued by the director until proof of adequate insurance on each such ride, as provided in RSA 321-A:5, III, is certified by the owner or operator to the [director] commissioner and the applicable fee has been paid.

Adopted.

HB 640-FN, Relative to motor vehicle license and registration fees, license plates and boat registrations.

Senator Chandler: The amendment corrects a typographical error, so that new material is properly indicated.

Amend the bill by replacing line 21 on page 3 with the following:

IX. For every certified copy of and duplicate of a certificate of

Adopted.

HB 657-FN, Relative to the investment of state trust funds.

Senator Chandler: This amendment corrects references in section 2 of the bill.

Amend the bill by replacing lines 1-3 on page 3 with the following:

funds in accordance with RSA 11:5.

II. Specific investment instruments contained in each category under RSA 11:5, I-VI.

Adopted.

SB 29, Relative to the appointment of a caretaker for the "Old Man of the Mountain."

Senator Chandler: This amendment corrects a grammatical error in section 1 of the bill.

Amend the bill by replacing line 8 on page 1 with the following:

caretaker. The person so honored shall be a resident of the state, a person

Adopted.

## COMMITTEE REPORTS

HB 15, Relative to the placement of candidates' names on ballots. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This is a bill that the House of Representative races, it allows the Secretary of State to pull a letter out at random, in which order you will place the candidates names and it's a good bill. I'm offering a floor amendment for a suggestion that was brought to the committee. I believe it has merit that the letter that begins the alphabetical order of the placement of the candidates names be drawn after the sign-up period of the candidates. Therefor, you won't see candidates getting in there once they know the letter, feeling there's an advantage of being first on the ballot. It really doesn't apply to Senate districts because Senate districts have a balance of where your name is placed throughout your district. Your district's large enough, so that they can have different ballots with your name first on some and an equal number in the last position. It really only applies to House races and I believe that the testimony was entirely in favor of it. I don't remember anyone who objected but this amendment would just make it a little more foolproof, being used as a manipulative tool in an election. I'd urge you to vote for the bill and the amendment.

## Floor Amendment to HB 15

Amend the bill by replacing sections 1, 2, and 3 with the following:

1 Order of Candidates' Names. Amend RSA 656:5 to read as follows:

656:5 Party Columns. The names of all candidates nominated in accordance with the election laws shall be arranged upon the state general election ballot in successive party columns. The alphabetical order of all the candidates' surnames in the party columns shall be randomly determined once every 2 years. At the close of the last day of the filing period for each state primary and general election, as provided in RSA 655:14 and 655:43 respectively, the secretary of state shall randomly select a letter of the alphabet and proceed with listing, in alphabetical order beginning with that letter, of all the candidates' surnames in the party columns. Each separate column shall contain the names of the candidates of one party; except that, if only a part of a full list of candidates is nominated by a political party, 2 or more such lists may be arranged whenever practicable in the same column. The first column shall contain the names of the candidates of the party which received the largest number of votes at the last preceding state general election.

2 Order of State Representative Surnames. Amend RSA 656:24 to read as follows:

656:24 Order of Names. With the exception of the office of state representative, whenever there are 2 or more candidates for nomination to the same office, the names of such candidates shall be alternated on the state primary election ballots used so that each name shall appear thereon as nearly as may be an equal number of times at the top, at the bottom, and in each intermediate place, if any, of the list in which it belongs. [Names of candidates for nomination to the office of state representative shall be arranged in the alphabetical order of their surnames.] At the close of the last day of the filing period for each state primary and general election, as provided in RSA 655:14 and 655:43 respectively, the secretary of state shall randomly select a letter of the alphabet and proceed with listing, in alphabetical order beginning with that letter; the surnames of the candidates for nomination to the office of state representative, as he shall have determined pursuant to RSA 656:5.

3 Application. The provisions of this act shall first apply to the state primary and state general election ballots used in 1988.

Floor Amendment Adopted. Ordered to Third Reading.

Senator White was excused for the day.

## RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 23, 1987 at 1:00 p.m.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

HB 30-FN-A, An act relative to uniform allowance for newly commissioned second lieutenants and warrant officers in the New Hampshire national guard and making an appropriation therefor:

HB 555-FN, An act relative to lucky 7 tickets sold by dispenser devices.

HB 662-FN, An act relative to reimbursement of the state for patients rendered services by the secure psychiatric unit.

HB 456-FN, Relative to interference with burial grounds and unlawful possession or sale of gravestones.

HB 393, Establishing the availability of the remedy of declaratory judgment to determine the coverage of a liability insurance policy in the federal district court.

HB 454, Relative to proof of exceptions.

HB 36, Relative to alimony and property settlements and fault grounds in divorce.

HB 43-FN, An act relative to eligibility for admittance to the New Hampshire Veterans' home.

HB 266, An act relative to the state veterans' needs committee.

HB 663-FN, An act legalizing action by the city of Franklin in adopting a budget and supplemental budget for an optional fiscal year and authorizing debt during the transition period.

HB 66-FN, Permitting the revival of certain corporate charters.

HB 123-FN, An act relative to sunset review of public employee labor relations board.

HB 312, An act to legalize a town meeting held in Canaan.

HB 434, An act relative to the public employee labor relations board.

HB 556-FN, An act relative to recording fees.

HB 15, An act relative to the placement of candidates' names on ballots.

Senator Dupont moved to adjourn until Thursday, April 23, 1987 at 1:00 p.m.

Adopted.

Adjourned.























